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109TH CONGRESS
2^D SESSION

H. R. 4954

[Report No. 109-447]

To improve maritime and cargo security through enhanced layered defenses,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2006

Mr. DANIEL E. LUNGREN of California (for himself, Ms. HARMAN, Mr. PEARCE, Mr. THOMPSON of Mississippi, Mr. BOEHLERT, Ms. LORETTA SANCHEZ of California, Mr. MCCAUL of Texas, Mr. DICKS, Mr. SOUDER, Mr. HOYER, Ms. HARRIS, Mr. DEFAZIO, Mr. JINDAL, Ms. JACKSON-LEE of Texas, Mr. SHAYS, Mr. LANGEVIN, Mr. DENT, Ms. NORTON, Mr. SIMMONS, Mr. ETHERIDGE, Ms. GINNY BROWN-WAITE of Florida, Mr. BROWN of South Carolina, Mr. MEEK of Florida, Mrs. BONO, Mr. LARSEN of Washington, Mr. FERGUSON, Mr. RUPPERSBERGER, Mr. GIBBONS, Mr. SMITH of Washington, Mr. PALLONE, Mr. CARDOZA, Mrs. MALONEY, Mrs. NAPOLITANO, Mr. BROWN of Ohio, Mr. SCHIFF, Mr. BERRY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, Ms. KILPATRICK of Michigan, Mr. FORD, Mr. PRICE of North Carolina, Mr. MCDERMOTT, Ms. ROYBAL-ALLARD, Mr. BRADY of Pennsylvania, Mr. BISHOP of Georgia, and Mr. WU) introduced the following bill; which was referred to the Committee on Homeland Security

APRIL 28, 2006

Reported with an amendment and referred to the Committee on Transportation and Infrastructure for a period ending not later than May 1, 2006, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(r), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

MAY 1, 2006

Additional sponsors: Mr. LINDER, Mr. FOLEY, Mrs. JO ANN DAVIS of Virginia, Mr. PLATTS, Mr. BACHUS, Mr. WELDON of Pennsylvania, Mrs. MYRICK, Mr. KLINE, Mr. CUMMINGS, Ms. BERKLEY, Mr. WEINER, Mr. McNULTY, Ms. WASSERMAN SCHULTZ, Mr. SCOTT of Virginia, Mr.

CASE, Mrs. TAUSCHER, Mr. BAIRD, Mr. SWEENEY, Mr. GEORGE MILLER of California, Mr. INSLEE, Mrs. CHRISTENSEN, Mr. BISHOP of New York, Mr. CROWLEY, Mr. AL GREEN of Texas, Mr. SMITH of New Jersey, Ms. WATSON, Mr. REICHERT, Mr. FOSSELLA, Mrs. DAVIS of California, Mr. ROTHMAN, Mr. TOM DAVIS of Virginia, Mr. KING of New York, Mr. SMITH of Texas, Mr. MOORE of Kansas, and Mr. COSTA

MAY 1, 2006

Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 14, 2006]

A BILL

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Se-*
5 *curity and Accountability For Every Port Act” or “SAFE*
6 *Port Act”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
8 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

Sec. 101. Definition of transportation security incident.

Sec. 102. Protocols for resumption of trade.

Sec. 103. Requirements relating to maritime facility security plans.

Sec. 104. Unannounced inspections of maritime facilities.

Sec. 105. Verification of individuals with access to secure areas of seaports.

- Sec. 106. Clarification on eligibility for transportation security cards.*
Sec. 107. Long-range vessel tracking.
Sec. 108. Maritime security command centers.

Subtitle B—Grant and Training Programs

- Sec. 111. Port security grant program.*
Sec. 112. Port security training program.
Sec. 113. Port security exercise program.
Sec. 114. Reserve officers and junior reserve officers training pilot project.

Subtitle C—Miscellaneous Provisions

- Sec. 121. Increase in port of entry inspection officers.*
Sec. 122. Acceleration of Integrated Deepwater System.
Sec. 123. Border Patrol unit for United States Virgin Islands.
Sec. 124. Report on ownership and operation of United States seaports.
Sec. 125. Report on security operations at certain United States seaports.
Sec. 126. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

- Sec. 201. Security of the international supply chain.*
Sec. 202. Next generation supply chain security technologies.
Sec. 203. Uniform data system for import and export information.
Sec. 204. Foreign port assessments.
Sec. 205. Pilot program to improve the security of empty containers.
Sec. 206. Study and report on advanced imagery pilot programs.

*TITLE III—DIRECTORATE FOR POLICY, PLANNING, AND
INTERNATIONAL AFFAIRS*

- Sec. 301. Establishment of Directorate.*

TITLE IV—OFFICE OF DOMESTIC NUCLEAR DETECTION

- Sec. 401. Establishment of Office.*
Sec. 402. Nuclear and radiological detection systems.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) Maritime vessels are the primary mode of
 4 transportation for international trade and they carry
 5 over 80 percent of international trade by volume.

6 (2) In 2004, maritime vessels carried approxi-
 7 mately 9,700,000 shipping containers into United

1 *States seaports at an average of 27,000 containers per*
2 *day.*

3 *(3) The security of the international container*
4 *supply chain and the maritime transportation system*
5 *is critical for the prosperity and liberty of all coun-*
6 *tries.*

7 *(4) In its final report, the National Commission*
8 *on Terrorist Attacks Upon the United States noted,*
9 *“While commercial aviation remains a possible tar-*
10 *get, terrorists may turn their attention to other modes*
11 *of transportation. Opportunities to do harm are as*
12 *great, or greater in maritime or surface transpor-*
13 *tation.”.*

14 *(5) In May 2002, the Brookings Institution esti-*
15 *mated that costs associated with United States port*
16 *closures from a detonated terrorist weapon could add*
17 *up to \$1 trillion from the resulting economic slump*
18 *and changes in our Nation’s inability to trade. An-*
19 *anticipated port closures on the west coast of the United*
20 *States could cost the United States economy \$1 billion*
21 *per day for the first five days after a terrorist attack.*

22 *(6) Significant steps have been taken since the*
23 *terrorist attacks against the United States that oc-*
24 *curred on September 11, 2001:*

1 (A) Congress passed the Maritime Trans-
2 portation Security Act of 2002 on November 14,
3 2002.

4 (B) The Coast Guard issued a comprehen-
5 sive set of port security regulations on October
6 22, 2003.

7 (C) The International Maritime Organiza-
8 tion adopted the International Ship and Port
9 Facility (ISPS) Code in December 2002.

10 (D) The White House issued Homeland Se-
11 curity Presidential Directive-13 in September
12 2005 which lays out requirements for a com-
13 prehensive maritime security policy.

14 (7) Through both public and private projects, the
15 private sector in the United States and overseas has
16 worked with the Department of Homeland Security to
17 improve the security of the movement of cargo through
18 the international supply chain.

19 (8) Despite these steps, security gaps in the mar-
20 itime transportation system remain, resulting in
21 high-risk container systems not being checked overseas
22 or domestically and ports that are vulnerable to ter-
23 rorist attacks similar to the attack on the U.S.S. Cole.

24 (9) Significant enhancements can be achieved by
25 applying a multi-layered approach to supply chain

1 security, in a coordinated fashion. Current supply
2 chain programs within the Federal Government have
3 been independently operated, often falling short of
4 gains which could have been made if such programs
5 were operated in a coordinated manner with clear
6 system standards and a framework that creates incen-
7 tives for security investments.

8 (10) While it is impossible to completely remove
9 the risk of a terrorist attack, security measures in the
10 supply chain can add certainty and stability to the
11 global economy, raise investor confidence, and facili-
12 tate trade. Some counterterrorism costs are integral to
13 the price that must be paid to protect society. How-
14 ever, counterterrorism measures also present an op-
15 portunity to increase the efficiency of the global trade
16 system through international harmonization of such
17 measures. These efficiency gains are maximized when
18 all countries adopt such counterterrorism measures.

19 (11) Increasing transparency in the supply
20 chain will assist in mitigating the impact of a ter-
21 rorist attack by allowing for a targeted shutdown of
22 the international supply chain and expedited restora-
23 tion of commercial traffic.

24 **SEC. 3. DEFINITIONS.**

25 *In this Act:*

1 **SEC. 102. PROTOCOLS FOR RESUMPTION OF TRADE.**

2 (a) *IN GENERAL.*—Section 70103(a)(2)(J) of title 46,
3 *United States Code*, is amended—

4 (1) by striking “(J)” and inserting “(J)(i)”; and

5 (2) by adding at the end the following new
6 clause:

7 “(ii) *The plan required by clause (i) shall in-*
8 *clude protocols for the resumption of trade in the*
9 *event of a transportation security incident that neces-*
10 *sitates the suspension of trade through contingency*
11 *and continuity planning that ensures trade lanes are*
12 *restored as quickly as possible. The protocols shall*
13 *provide for—*

14 “(I) *coordination with appropriate Federal,*
15 *State, and local agencies, the private sector, and*
16 *appropriate overseas entities in developing such*
17 *contingency and continuity planning;*

18 “(II) *coordination with appropriate Fed-*
19 *eral, State, and local agencies and the private*
20 *sector on law enforcement actions, inter-modal*
21 *rerouting plans, and identification and*
22 *prioritization of goods that may enter the United*
23 *States; and*

24 “(III) *designation of appropriate Federal*
25 *officials to work with port authorities to reestab-*
26 *lish the flow of cargo by prioritizing shipments*

1 *based on appropriate factors, including factors*
2 *relating to public health, national security, and*
3 *economic need.”.*

4 **(b) EFFECTIVE DATE.**—*The Secretary of Homeland*
5 *Security shall develop the protocols described in section*
6 *70103(a)(2)(J)(ii) of title 46, United States Code, as added*
7 *by subsection (a), not later than 180 days after the date*
8 *of the enactment of this Act.*

9 **SEC. 103. REQUIREMENTS RELATING TO MARITIME FACIL-**
10 **ITY SECURITY PLANS.**

11 **(a) FACILITY SECURITY PLANS.**—*The Secretary of*
12 *Homeland Security shall require that a security plan for*
13 *a facility required under section 70103(c) of title 46, United*
14 *States Code, shall be resubmitted for approval upon transfer*
15 *of ownership or operation of such facility.*

16 **(b) FACILITY SECURITY OFFICERS.**—

17 **(1) IN GENERAL.**—*The Secretary shall require*
18 *that the qualified individual having full authority to*
19 *implement security actions who is required to be*
20 *identified under section 70103(c)(3)(B) of title 46,*
21 *United States Code, for a facility described in section*
22 *70103(c)(2) of that title shall be a citizen of the*
23 *United States.*

24 **(2) WAIVER.**—*The Secretary may waive the re-*
25 *quirement of paragraph (1) with respect to an indi-*

1 (1) *not later than July 15, 2006, issue a notice*
2 *of proposed rulemaking for regulations required to*
3 *implement section 70105 of title 46, United States*
4 *Code;*

5 (2) *not later than November 15, 2006, issue final*
6 *regulations required to implement that section; and*

7 (3) *begin issuing transportation security cards to*
8 *individuals at seaports facilities under subsection (b)*
9 *of that section in accordance with the schedule con-*
10 *tained in subsection (b)(2) of this section.*

11 *(b) TRANSPORTATION SECURITY CARDS.—*

12 (1) *MANAGEMENT.—Final regulations issued*
13 *under subsection (a)(2) shall provide for Federal*
14 *management of the system for issuing transportation*
15 *security cards.*

16 (2) *SCHEDULE FOR ISSUING TRANSPORTATION*
17 *SECURITY CARDS AT SEAPORTS.—*

18 (A) *Not later than May 15, 2007, the Sec-*
19 *retary shall begin issuing transportation security*
20 *cards to individuals at the first 25 seaport facili-*
21 *ties listed on the facility vulnerability assessment*
22 *issued by the Secretary under section 70102 of*
23 *title 46, United States Code.*

24 (B) *Not later than November 15, 2007, the*
25 *Secretary shall begin issuing transportation se-*

1 *curity cards to individuals at the next 30 sea-*
2 *port facilities listed on that assessment.*

3 (C) *Not later than November 15, 2008, the*
4 *Secretary shall issue transportation security*
5 *cards to individuals at all other seaport facili-*
6 *ties.*

7 (c) *INTERIM VERIFICATION OF INDIVIDUALS.—*

8 (1) *TERRORIST WATCH LIST COMPARISON AND*
9 *IMMIGRATION RECORDS CHECK.—Not later than 90*
10 *days after the date of enactment of this Act, the Sec-*
11 *retary shall—*

12 (A) *complete a comparison of each indi-*
13 *vidual who has unescorted access to a secure area*
14 *of a seaport facility (as designated in an ap-*
15 *proved facility security plan in accordance with*
16 *section 70103(c) of title 46, United States Code)*
17 *against terrorist watch lists to determine if the*
18 *individual poses a threat; and*

19 (B) *determine whether each such individual*
20 *may be denied admission to the United States,*
21 *or removed from the United States, under the*
22 *Immigration and Nationality Act (8 U.S.C.*
23 *1101 et seq.).*

24 (2) *CONTINUING REQUIREMENT.—In the case of*
25 *an individual who is given unescorted access to a se-*

1 *cure area of a seaport facility after the date on which*
2 *the Secretary completes the requirements of para-*
3 *graph (1) and before the date on which the Secretary*
4 *begins issuing transportation security cards at the*
5 *seaport facility, the Secretary shall conduct a com-*
6 *parison of the individual against terrorist watch lists*
7 *and determine whether the individual is lawfully*
8 *present in the United States.*

9 (3) *INTERIM FINAL REGULATIONS.*—*In order to*
10 *carry out this subsection, the Secretary shall issue in-*
11 *terim final regulations to require submission to the*
12 *Secretary of information necessary to carry out the*
13 *requirements of paragraph (1).*

14 (4) *PRIVACY REQUIREMENTS.*—*Terrorist watch*
15 *list comparisons and immigration records checks*
16 *under this subsection shall be carried out in accord-*
17 *ance with the requirements of section 552a of title 5,*
18 *United States Code.*

19 (5) *RESTRICTIONS ON USE AND MAINTENANCE OF*
20 *INFORMATION.*—

21 (A) *RESTRICTION ON DISCLOSURE.*—*Infor-*
22 *mation obtained by the Secretary in the course*
23 *of comparing the individual against terrorist*
24 *watch lists under this subsection may not be*

1 *made available to the public, including the indi-*
2 *vidual’s employer.*

3 *(B) CONFIDENTIALITY; USE.—Any informa-*
4 *tion constituting grounds for prohibiting the em-*
5 *ployment of an individual in a position de-*
6 *scribed in paragraph (1)(A) shall be maintained*
7 *confidentially by the Secretary and may be used*
8 *only for making determinations under this sec-*
9 *tion. The Secretary may share any such infor-*
10 *mation with appropriate Federal, State, local,*
11 *and tribal law enforcement agencies.*

12 *(6) TERRORIST WATCH LISTS DEFINED.—In this*
13 *subsection, the term “terrorist watch lists” means all*
14 *available information on known or suspected terror-*
15 *ists or terrorist threats.*

16 *(d) REPORTING.—Not later than 120 days after the*
17 *date of enactment of this Act, the Secretary shall submit*
18 *to the appropriate congressional committees a report con-*
19 *taining information on—*

20 *(1) the number of matches made in conducting*
21 *terrorist watch list comparisons, and the number of*
22 *individuals found to be unlawfully present in the*
23 *United States, under subsection (c);*

1 (2) *the corresponding seaport facilities at which*
2 *the matches and unlawfully present individuals were*
3 *identified; and*

4 (3) *the actions taken as a result of the terrorist*
5 *watchlist comparisons and immigration records*
6 *checks under subsection (c).*

7 (e) *TREATMENT OF INDIVIDUALS RECEIVING HAZ-*
8 *ARDOUS MATERIALS ENDORSEMENTS.—*

9 (1) *IN GENERAL.—To the extent the Secretary*
10 *determines that the background records check con-*
11 *ducted under section 5103a of title 49, United States*
12 *Code, and the background records check conducted*
13 *under section 70105 of title 46, United States Code,*
14 *are equivalent, the Secretary shall determine that an*
15 *individual does not pose a risk warranting denial of*
16 *a transportation security card issued under section*
17 *70105 of title 46, United States Code, if such indi-*
18 *vidual—*

19 (A) *has successfully completed a background*
20 *records check under section 5103a of title 49,*
21 *United States Code; and*

22 (B) *possesses a current and valid hazardous*
23 *materials endorsement in accordance with sec-*
24 *tion 1572 of title 49, Code of Federal Regula-*
25 *tions.*

1 (b) *VOLUNTARY PROGRAM.*—*The Secretary of Home-*
2 *land Security may issue regulations to establish a vol-*
3 *untary long-range automated vessel tracking system for ves-*
4 *sels described in section 70115 of title 46, United States*
5 *Code, during the period before regulations are issued under*
6 *subsection (a) of such section.*

7 **SEC. 108. MARITIME SECURITY COMMAND CENTERS.**

8 (a) *IN GENERAL.*—*Chapter 701 of title 46, United*
9 *States Code, is amended by adding at the end the following*
10 *new section:*

11 **“§ 70122. Maritime security command centers**

12 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
13 *an integrated network of virtual and physical maritime se-*
14 *curity command centers at appropriate United States sea-*
15 *ports and maritime regions, as determined by the Sec-*
16 *retary, to—*

17 “(1) *enhance information sharing;*

18 “(2) *facilitate day-to-day operational coordina-*
19 *tion; and*

20 “(3) *in the case of a transportation security in-*
21 *cident, facilitate incident management and response.*

22 “(b) *CHARACTERISTICS.*—*Each maritime security*
23 *command center described in subsection (a) shall—*

24 “(1) *be regionally based and utilize where avail-*
25 *able the compositional and operational characteris-*

1 *tics, facilities and information technology systems of*
2 *current operational centers for port and maritime se-*
3 *curity and other similar existing facilities and sys-*
4 *tems;*

5 *“(2) be adapted to meet the security needs, re-*
6 *quirements, and resources of the seaport and mari-*
7 *time region the center will cover; and*

8 *“(3) to the maximum extent practicable, not in-*
9 *volve the construction of new facilities, but shall uti-*
10 *lize information technology, virtual connectivity, and*
11 *existing facilities to create an integrated, real-time*
12 *communication and information sharing network.*

13 *“(c) PARTICIPATION.—The following entities shall par-*
14 *ticipate in the integrated network of maritime security*
15 *command centers described in subsection (a):*

16 *“(1) The Coast Guard.*

17 *“(2) U.S. Customs and Border Protection.*

18 *“(3) U.S. Immigration and Customs Enforce-*
19 *ment.*

20 *“(4) Other appropriate Federal, State, and local*
21 *law enforcement agencies.*

22 *“(d) RESPONSIBILITIES.—Each maritime security*
23 *command center described in subsection (a) shall—*

1 “(1) assist, as appropriate, in the implementa-
2 tion of maritime transportation security plans devel-
3 oped under section 70103;

4 “(2) implement the transportation security inci-
5 dent response plans required under section 70104;

6 “(3) carry out information sharing activities
7 consistent with those activities required under section
8 1016 of the National Security Intelligence Reform Act
9 of 2004 (6 U.S.C. 485) and the Homeland Security
10 Information Sharing Act (6 U.S.C. 481 et seq.);

11 “(4) conduct short- and long-range vessel track-
12 ing under sections 70114 and 70115; and

13 “(5) carry out such other responsibilities as de-
14 termined by the Secretary.

15 “(e) SECURITY CLEARANCES.—The Secretary shall
16 sponsor and expedite individuals participating in a mari-
17 time security command center described in subsection (a)
18 in gaining or maintaining their security clearances.
19 Through the Captain of the Port, the Secretary may iden-
20 tify key individuals who should participate. In addition,
21 the port or other entities may appeal to the Captain of the
22 Port for sponsorship.

23 “(f) SECURITY INCIDENTS.—During a transportation
24 security incident involving the port, the Coast Guard Cap-
25 tain of the Port designated by the Commandant of the Coast

1 *Guard in a maritime security command center described*
2 *in subsection (a) shall act as the incident commander, un-*
3 *less otherwise directed by the President.*

4 “(g) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
5 *tion shall be construed to affect the normal command and*
6 *control procedures for operational entities in the Depart-*
7 *ment, unless so directed by the Secretary.*

8 “(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
9 *are authorized to be appropriated \$60,000,000 for each of*
10 *the fiscal years 2007 through 2012 to carry out this section*
11 *and section 108(c) of the Security and Accountability For*
12 *Every Port Act.”.*

13 “(b) *CLERICAL AMENDMENT.*—*The table of sections at*
14 *the beginning of chapter 701 of title 46, United States Code,*
15 *is amended by adding at the end the following:*

 “70122. *Maritime security command centers.*”.

16 “(c) *IMPLEMENTATION PLAN AND BUDGET ANALYSIS.*—
17 *The Secretary of Homeland Security shall submit to the ap-*
18 *propriate congressional committees a plan for the imple-*
19 *mentation of section 70122 of title 46, United States Code,*
20 *as added by subsection (a), and a budget analysis for the*
21 *implementation of such section, including additional cost-*
22 *sharing arrangements with other Federal departments and*
23 *agencies and other participants involved in the maritime*
24 *security command centers described in such section, not*

1 *later than 180 days after the date of the enactment of this*
2 *Act.*

3 ***Subtitle B—Grant and Training***
4 ***Programs***

5 ***SEC. 111. PORT SECURITY GRANT PROGRAM.***

6 *(a) IN GENERAL.—Title V of the Homeland Security*
7 *Act of 2002 (6 U.S.C. 311 et seq.) is amended—*

8 *(1) by redesignating the second section 510 (as*
9 *added by section 7303(d) of Public Law 108–458 (118*
10 *Stat. 3844)) as section 511; and*

11 *(2) by adding at the end the following new sec-*
12 *tion:*

13 ***“SEC. 512. PORT SECURITY GRANT PROGRAM.***

14 *“(a) GRANTS AUTHORIZED.—The Secretary shall es-*
15 *tablish a grant program to allocate Federal financial assist-*
16 *ance to United States seaports on the basis of risk and need.*

17 *“(b) PRIORITIZATION PROCESS.—In awarding grants*
18 *under this section, the Secretary shall conduct an assess-*
19 *ment of United States seaports to develop a prioritization*
20 *for awarding grants authorized under subsection (a) based*
21 *upon—*

22 *“(1) the most current risk assessment available*
23 *from the Department;*

24 *“(2) the national economic and strategic defense*
25 *considerations of individual ports; and*

1 “(3) any other factors that the Secretary deter-
2 mines to be appropriate.

3 “(c) *APPLICATION*.—

4 “(1) *IN GENERAL*.—Any entity or facility subject
5 to an Area Maritime Transportation Security Plan
6 required under subsection (b) or (c) of section 70103
7 of title 46, United States Code, may submit an appli-
8 cation for a grant under this section, at such time,
9 in such form, and containing such information and
10 assurances as the Secretary may require.

11 “(2) *MINIMUM STANDARDS FOR PAYMENT OR RE-*
12 *IMBURSEMENT*.—Each application submitted under
13 paragraph (1) shall include—

14 “(A) a comprehensive description of—

15 “(i) the purpose of the project for
16 which the applicant seeks a grant under
17 this section and why the applicant needs the
18 grant;

19 “(ii) the applicability of the project to
20 the Area Maritime Transportation Security
21 Plan and other homeland security plans;

22 “(iii) the methodology for coordinating
23 the project into the security of the greater
24 port area, as identified in the Area Mari-
25 time Transportation Security Plan;

1 “(iv) any existing cooperation or mu-
2 tual aid agreements with other port facili-
3 ties, vessels, organizations, or State, terri-
4 torial, and local governments as such agree-
5 ments relate to port security; and

6 “(v) a capital budget showing how the
7 applicant intends to allocate and expend the
8 grant funds;

9 “(B) a determination by the Captain of the
10 Port that the project—

11 “(i) addresses or corrects port security
12 vulnerabilities; and

13 “(ii) helps to ensure compliance with
14 the Area Maritime Transportation Security
15 Plan.

16 “(3) *PROCEDURAL SAFEGUARDS.*—The Sec-
17 retary, in consultation with the Office of the Inspector
18 General and the Office of Grants and Training, shall
19 issue guidelines to establish appropriate accounting,
20 reporting, and review procedures to ensure that—

21 “(A) grant funds are used for the purposes
22 for which they were made available;

23 “(B) grantees have properly accounted for
24 all expenditures of grant funds; and

1 “(C) grant funds not used for such purposes
2 and amounts not obligated or expended are re-
3 turned.

4 “(d) *USE OF FUNDS.*—Grants awarded under this sec-
5 tion may be used—

6 “(1) to help implement Area Maritime Trans-
7 portation Security Plans required under section
8 70103(b) of title 46, United States Code;

9 “(2) to remedy port security vulnerabilities iden-
10 tified through vulnerability assessments approved by
11 the Secretary;

12 “(3) for non-Federal projects contributing to the
13 overall security of a seaport or a system of United
14 States seaports, as determined by the Secretary;

15 “(4) for the salaries, benefits, overtime compensa-
16 tion, and other costs of additional security personnel
17 for State and local agencies for activities required by
18 the Area Maritime Transportation Security Plan for
19 a seaport area if the Secretary—

20 “(A) increases the threat level under the
21 Homeland Security Advisory System to Code
22 Orange or Code Red; or

23 “(B) raises the Maritime Security level to
24 MARSEC Level 2 or 3;

1 “(5) for the cost of acquisition, operation, and
2 maintenance of equipment that contributes to the
3 overall security of the port area, as identified in the
4 Area Maritime Transportation Security Plan, if the
5 need is based upon vulnerability assessments ap-
6 proved by the Secretary or identified in the Area
7 Maritime Security Plan;

8 “(6) to conduct vulnerability assessments ap-
9 proved by the Secretary;

10 “(7) to purchase or upgrade equipment, includ-
11 ing computer software, to enhance terrorism pre-
12 paredness;

13 “(8) to conduct exercises or training for preven-
14 tion and detection of, preparedness for, response to, or
15 recovery from terrorist attacks;

16 “(9) to establish or enhance mechanisms for
17 sharing terrorism threat information;

18 “(10) for the cost of equipment (including soft-
19 ware) required to receive, transmit, handle, and store
20 classified information;

21 “(11) for the protection of critical infrastructure
22 against potential attack by the addition of barriers,
23 fences, gates, and other such devices, except that the
24 cost of such measures may not exceed the greater of—

25 “(A) \$1,000,000 per project; or

1 “(B) such greater amount as may be ap-
2 proved by the Secretary, which may not exceed
3 10 percent of the total amount of the grant; and

4 “(12) to conduct port-wide exercises to strengthen
5 emergency preparedness of Federal, State, territorial,
6 and local officials responsible for port security, in-
7 cluding law enforcement personnel and firefighters
8 and other first responders, in support of the Area
9 Maritime Security Plan.

10 “(e) *PROHIBITED USES.*—Grants awarded under this
11 section may not be used to—

12 “(1) supplant State or local funds for activities
13 of the type described in subsection (d);

14 “(2) construct buildings or other physical facili-
15 ties;

16 “(3) acquire land; or

17 “(4) make any State or local government cost-
18 sharing contribution.

19 “(f) *MATCHING REQUIREMENT.*—

20 “(1) *IN GENERAL.*—Except as provided in sub-
21 paragraph (A) or (B) of paragraph (2), Federal funds
22 for any eligible project under this section shall not ex-
23 ceed 75 percent of the total cost of such project.

24 “(2) *EXCEPTIONS.*—

1 “(A) *SMALL PROJECTS.*—*The requirement*
2 *of paragraph (1) shall not apply with respect to*
3 *a project with a total cost of not more than*
4 *\$25,000.*

5 “(B) *HIGHER LEVEL OF FEDERAL SUPPORT*
6 *REQUIRED.*—*The requirement of paragraph (1)*
7 *shall not apply with respect to a project if the*
8 *Secretary determines that the project merits sup-*
9 *port and cannot be undertaken without a higher*
10 *rate of Federal support than the rate described*
11 *in paragraph (1).*

12 “(3) *IN-KIND CONTRIBUTIONS.*—*Each recipient*
13 *of a grant under this section may meet the require-*
14 *ment of paragraph (1) by making in-kind contribu-*
15 *tions of goods or services that are directly linked with*
16 *the purpose for which the grant is made, as deter-*
17 *mined by the Secretary, including any necessary per-*
18 *sonnel expenses, contractor services, administrative*
19 *costs, equipment, fuel, or maintenance, and rental*
20 *space.*

21 “(g) *MULTIPLE PHASE PROJECTS.*—

22 “(1) *IN GENERAL.*—*The Secretary may award*
23 *grants under this section for projects that span mul-*
24 *tiple years.*

1 “(2) *FUNDING LIMITATION.*—Not more than 20
2 *percent of the total grant funds awarded under this*
3 *section in any fiscal year may be awarded for*
4 *projects that span multiple years.*

5 “(h) *CONSISTENCY WITH PLANS.*—The Secretary shall
6 *ensure that each grant awarded under this section—*

7 “(1) *is used to supplement and support, in a*
8 *consistent and coordinated manner, the applicable*
9 *Area Maritime Transportation Security Plan; and*

10 “(2) *is coordinated with any applicable State or*
11 *Urban Area Homeland Security Plan.*

12 “(i) *COORDINATION AND COOPERATION.*—The Sec-
13 *retary—*

14 “(1) *shall ensure that all projects that receive*
15 *grant funding under this section within any area de-*
16 *fined in an Area Maritime Transportation Security*
17 *Plan are coordinated with other projects in such area;*
18 *and*

19 “(2) *may require cooperative agreements among*
20 *users of the seaport and seaport facilities with respect*
21 *to projects funded under this section.*

22 “(j) *REVIEW AND AUDITS.*—The Secretary shall re-
23 *quire all grantees under this section to maintain such*
24 *records as the Secretary may require and make such records*
25 *available for review and audit by the Secretary, the Comp-*

1 *troller General of the United States, or the Inspector Gen-*
2 *eral of the Department.*

3 “(k) *AUTHORIZATION OF APPROPRIATIONS.*—

4 “(1) *IN GENERAL.*—*There are authorized to be*
5 *appropriated \$400,000,000 for each of fiscal years*
6 *2007 through 2012 to carry out this section.*

7 “(2) *SOURCE OF FUNDS.*—*Amounts authorized*
8 *to be appropriated under paragraph (1) shall origi-*
9 *nate from duties collected by U.S. Customs and Bor-*
10 *der Protection.*”.

11 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
12 *section 1(b) of the Homeland Security Act of 2002 (116*
13 *Stat. 2135) is amended by inserting after the item relating*
14 *to section 509 the following:*

“Sec. 510. *Procurement of security countermeasures for strategic national stock-*
pile.

“Sec. 511. *Urban and other high risk area communications capabilities.*

“Sec. 512. *Port security grant program.*”.

15 (c) *REPEAL.*—

16 (1) *IN GENERAL.*—*Section 70107 of title 46,*
17 *United States Code, is hereby repealed.*

18 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
19 *tions at the beginning of chapter 701 of title 46,*
20 *United States Code, is amended by striking the item*
21 *relating to section 70107.*

1 **SEC. 112. PORT SECURITY TRAINING PROGRAM.**

2 (a) *IN GENERAL.*—Subtitle A of title VIII of the
3 Homeland Security Act of 2002 (6 U.S.C. 361) is amended
4 by adding at the end the following new section:

5 **“SEC. 802. PORT SECURITY TRAINING PROGRAM.**

6 “(a) *IN GENERAL.*—The Secretary, acting through the
7 Assistant Secretary for Grants and Training and in coordi-
8 nation with components of the Department with maritime
9 security expertise, including the Coast Guard, the Trans-
10 portation Security Administration, and U.S. Customs and
11 Border Protection, shall establish a Port Security Training
12 Program (hereinafter in this section referred to as the ‘Pro-
13 gram’) for the purpose of enhancing the capabilities of each
14 of the Nation’s commercial seaports to prevent, prepare for,
15 respond to, mitigate against, and recover from threatened
16 or actual acts of terrorism, natural disasters, and other
17 emergencies.

18 “(b) *REQUIREMENTS.*—The Program shall provide
19 validated training that—

20 “(1) reaches multiple disciplines, including Fed-
21 eral, State, and local government officials, commercial
22 seaport personnel and management, and govern-
23 mental and nongovernmental emergency response pro-
24 viders;

25 “(2) provides training at the awareness, per-
26 formance, and management and planning levels;

1 “(3) utilizes multiple training mediums and
2 methods, including—

3 “(A) direct delivery;

4 “(B) train-the-trainer;

5 “(C) computer-based training;

6 “(D) web-based training; and

7 “(E) video teleconferencing;

8 “(4) addresses port security topics, including—

9 “(A) seaport security plans and procedures,
10 including how security plans and procedures are
11 adjusted when threat levels increase;

12 “(B) seaport security force operations and
13 management;

14 “(C) physical security and access control at
15 seaports;

16 “(D) methods of security for preventing and
17 countering cargo theft;

18 “(E) container security;

19 “(F) recognition and detection of weapons,
20 dangerous substances, and devices;

21 “(G) operation and maintenance of security
22 equipment and systems;

23 “(H) security threats and patterns;

24 “(I) security incident procedures, including
25 procedures for communicating with govern-

1 *mental and nongovernmental emergency response*
2 *providers; and*

3 “(J) *evacuation procedures;*

4 “(5) *is consistent with, and supports implemen-*
5 *tation of, the National Incident Management System,*
6 *the National Response Plan, the National Infrastruc-*
7 *ture Protection Plan, the National Preparedness*
8 *Guidance, the National Preparedness Goal, and other*
9 *such national initiatives;*

10 “(6) *is evaluated against clear and consistent*
11 *performance measures; and*

12 “(7) *addresses security requirements under facil-*
13 *ity security plans.*

14 “(c) *NATIONAL VOLUNTARY CONSENSUS STAND-*
15 *ARDS.—The Secretary shall—*

16 “(1) *support the development, promulgation, and*
17 *regular updating as necessary of national voluntary*
18 *consensus standards for port security training; and*

19 “(2) *ensure that the training provided under this*
20 *section is consistent with such standards.*

21 “(d) *TRAINING PARTNERS.—In developing and deliv-*
22 *ering training under the Program, the Secretary shall—*

23 “(1) *work with government training facilities,*
24 *academic institutions, private organizations, em-*
25 *ployee organizations, and other entities that provide*

1 *specialized, state-of-the-art training for governmental*
2 *and nongovernmental emergency responder providers*
3 *or commercial seaport personnel and management;*
4 *and*

5 “(2) *utilize, as appropriate, training courses*
6 *provided by community colleges, public safety acad-*
7 *emies, State and private universities, and other facili-*
8 *ties.*

9 “(e) *CONSULTATION.—The Secretary shall ensure that,*
10 *in carrying out the Program, the Office of Grants and*
11 *Training shall consult with—*

12 “(1) *a geographic and substantive cross section*
13 *of governmental and nongovernmental emergency re-*
14 *sponse providers; and*

15 “(2) *commercial seaport personnel and manage-*
16 *ment.*

17 “(f) *COMMERCIAL SEAPORT PERSONNEL DEFINED.—*
18 *For purposes of this section, the term ‘commercial seaport*
19 *personnel’ means any person engaged in an activity relat-*
20 *ing to the loading or unloading of cargo, the movement or*
21 *tracking of cargo, the maintenance and repair of inter-*
22 *modal equipment, the operation of cargo-related equipment*
23 *(whether or not integral to the vessel), and the handling*
24 *of mooring lines on the dock when a vessel is made fast*

1 *or let go, in the United States or the coastal waters there-*
2 *of.”.*

3 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
4 *section 1(b) of the Homeland Security Act of 2002 (116*
5 *Stat. 2135) is amended by inserting after the item relating*
6 *to section 801 the following:*

“Sec. 802. Port security training program.”.

7 (c) *VESSEL AND FACILITY SECURITY PLANS.*—*Section*
8 *70103(c)(3) of title 46, United States Code, is amended—*

9 (1) *in subparagraph (E), by striking “the train-*
10 *ing, periodic unannounced drills, and”*

11 (2) *by redesignating subparagraphs (F) and (G)*
12 *as subparagraphs (G) and (H), respectively; and*

13 (3) *by inserting after subparagraph (E) the fol-*
14 *lowing new subparagraph:*

15 *“(F) provide a strategy and timeline for con-*
16 *ducting training and periodic unannounced drills for*
17 *persons on the vessel or at the facility to be carried*
18 *out under the plan to deter, to the maximum extent*
19 *practicable, a transportation security incident or a*
20 *substantial threat of such a transportation security*
21 *incident;”.*

22 **SEC. 113. PORT SECURITY EXERCISE PROGRAM.**

23 (a) *IN GENERAL.*—*Subtitle A of title VIII of the*
24 *Homeland Security Act of 2002 (6 U.S.C. 361), as amended*

1 by section 112, is further amended by adding at the end
2 the following new section:

3 **“SEC. 803. PORT SECURITY EXERCISE PROGRAM.**

4 “(a) *IN GENERAL.*—The Secretary, acting through the
5 Assistant Secretary for Grants and Training, shall establish
6 a Port Security Exercise Program (hereinafter in this sec-
7 tion referred to as the ‘Program’) for the purpose of testing
8 and evaluating the capabilities of Federal, State, local, and
9 foreign governments, commercial seaport personnel and
10 management, governmental and nongovernmental emer-
11 gency response providers, the private sector, or any other
12 organization or entity, as the Secretary determines to be
13 appropriate, to prevent, prepare for, mitigate against, re-
14 spond to, and recover from acts of terrorism, natural disas-
15 ters, and other emergencies at commercial seaports.

16 “(b) *REQUIREMENTS.*—The Secretary, acting through
17 the Assistant Secretary for Grants and Training and in
18 coordination with components of the Department with mar-
19 itime security expertise, including the Coast Guard, the
20 Transportation Security Administration, and U.S. Cus-
21 toms and Border Protection, shall ensure that the Pro-
22 gram—

23 “(1) consolidates all existing port security exer-
24 cise programs administered by the Department;

1 “(2) conducts, on a periodic basis, port security
2 *exercises at commercial seaports that are—*

3 “(A) scaled and tailored to the needs of each
4 *port;*

5 “(B) live in the case of the most at-risk
6 *ports;*

7 “(C) as realistic as practicable and based
8 *on current risk assessments, including credible*
9 *threats, vulnerabilities, and consequences;*

10 “(D) consistent with the National Incident
11 *Management System, the National Response*
12 *Plan, the National Infrastructure Protection*
13 *Plan, the National Preparedness Guidance, the*
14 *National Preparedness Goal, and other such na-*
15 *tional initiatives;*

16 “(E) evaluated against clear and consistent
17 *performance measures;*

18 “(F) assessed to learn best practices, which
19 *shall be shared with appropriate Federal, State,*
20 *and local officials, seaport personnel and man-*
21 *agement; governmental and nongovernmental*
22 *emergency response providers, and the private*
23 *sector; and*

24 “(G) followed by remedial action in re-
25 *sponse to lessons learned; and*

1 “(3) assists State and local governments and
2 commercial seaports in designing, implementing, and
3 evaluating exercises that—

4 “(A) conform to the requirements of para-
5 graph (2); and

6 “(B) are consistent with any applicable
7 Area Maritime Transportation Security Plan
8 and State or Urban Area Homeland Security
9 Plan.

10 “(c) *REMEDIAL ACTION MANAGEMENT SYSTEM.*—The
11 Secretary, acting through the Assistant Secretary for
12 Grants and Training, shall establish a Remedial Action
13 Management System to—

14 “(1) identify and analyze each port security ex-
15 ercise for lessons learned and best practices;

16 “(2) disseminate lessons learned and best prac-
17 tices to participants in the Program;

18 “(3) monitor the implementation of lessons
19 learned and best practices by participants in the Pro-
20 gram; and

21 “(4) conduct remedial action tracking and long-
22 term trend analysis.

23 “(d) *GRANT PROGRAM FACTOR.*—In evaluating and
24 prioritizing applications for Federal financial assistance
25 under section 512, the Secretary shall give additional con-

1 *sideration to those applicants that have conducted port se-*
2 *curity exercises under this section.*

3 “(e) *CONSULTATION.*—*The Secretary shall ensure that,*
4 *in carrying out the Program, the Office of Grants and*
5 *Training shall consult with—*

6 “(1) *a geographic and substantive cross section*
7 *of governmental and nongovernmental emergency re-*
8 *sponse providers; and*

9 “(2) *commercial seaport personnel and manage-*
10 *ment.*

11 “(f) *COMMERCIAL SEAPORT PERSONNEL DEFINED.*—
12 *For purposes of this section, the term ‘commercial seaport*
13 *personnel’ means any person engaged in an activity relat-*
14 *ing to the loading or unloading of cargo, the movement or*
15 *tracking of cargo, the maintenance and repair of inter-*
16 *modal equipment, the operation of cargo-related equipment*
17 *(whether or not integral to the vessel), and the handling*
18 *of mooring lines on the dock when a vessel is made fast*
19 *or let go, in the United States or the coastal waters there-*
20 *of.’”.*

21 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
22 *section 1(b) of the Homeland Security Act of 2002 (116*
23 *Stat. 2135), as amended by section 112, is further amended*
24 *by inserting after the item relating to section 802 the fol-*
25 *lowing:*

“Sec. 803. *Port security exercise program.*”.

1 **SEC. 114. RESERVE OFFICERS AND JUNIOR RESERVE OFFI-**
2 **CERS TRAINING PILOT PROJECT.**

3 (a) *IN GENERAL.*—The Secretary of the department in
4 which the Coast Guard is operating (in this section referred
5 to as the “Secretary”) may carry out a pilot project to es-
6 tablish and maintain a reserve officers and a junior reserve
7 officers training program in locations determined by the
8 Secretary.

9 (b) *CRITERIA FOR SELECTION.*—The Secretary shall
10 establish and maintain a training program under this sec-
11 tion in each Coast Guard District, preferably in a location
12 that has a Coast Guard district headquarters. The Secretary
13 shall ensure that at least one program is established at each
14 of an historically black college or university, an hispanic
15 serving institution, and a high school with majority-minor-
16 ity population.

17 (c) *PROGRAM REQUIREMENTS.*—A pilot program car-
18 ried out by the Secretary under this section shall provide
19 students—

20 (1) *instruction in subject areas relating to oper-*
21 *ations of the Coast Guard; and*

22 (2) *training in skills that are useful and appro-*
23 *priate for a career in the Coast Guard.*

24 (d) *PROVISION OF ADDITIONAL SUPPORT.*—To carry
25 out a pilot program under this section, the Secretary may
26 provide—

1 (1) *assistance in course development, instruction,*
2 *and other support activities;*

3 (2) *commissioned, warrant, and petty officers of*
4 *the Coast Guard to serve as administrators and in-*
5 *structors; and*

6 (3) *necessary and appropriate course materials,*
7 *equipment, and uniforms.*

8 (e) *EMPLOYMENT OF RETIRED COAST GUARD PER-*
9 *SONNEL.—*

10 (1) *IN GENERAL.—Subject to paragraph (2), the*
11 *Secretary may authorize a selected college, university,*
12 *or high school to employ as administrators and in-*
13 *structors for the pilot program retired Coast Guard*
14 *and Coast Guard Reserve commissioned, warrant,*
15 *and petty officers who request that employment and*
16 *who are approved by the Secretary.*

17 (2) *AUTHORIZED PAY.—*

18 (A) *IN GENERAL.—Retired members em-*
19 *ployed pursuant to paragraph (1) may receive*
20 *their retired or retainer pay and an additional*
21 *amount of not more than the difference be-*
22 *tween—*

23 (i) *the amount the individual would be*
24 *paid as pay and allowance if they were con-*
25 *sidered to have been ordered to active duty*

1 *with the Coast Guard during that period of*
2 *employment; and*

3 (ii) *the amount of retired pay the indi-*
4 *vidual is entitled to receive during that pe-*
5 *riod.*

6 (B) *PAYMENT TO THE SCHOOL.—The Sec-*
7 *retary shall pay to a selected college, university,*
8 *or high school an amount equal to one half of the*
9 *amount described in subparagraph (A), from*
10 *funds appropriated for that purpose.*

11 (f) *AUTHORIZATION OF APPROPRIATIONS.—To carry*
12 *out this section there is authorized to be appropriated to*
13 *the Secretary such sums as may be necessary for each of*
14 *fiscal years 2007 through 2010.*

15 ***Subtitle C—Miscellaneous***
16 ***Provisions***

17 ***SEC. 121. INCREASE IN PORT OF ENTRY INSPECTION OFFI-***
18 ***CERS.***

19 (a) *IN GENERAL.—The Secretary of Homeland Secu-*
20 *rity shall increase by not less than 200 the number of posi-*
21 *tions for full-time active duty port of entry inspection offi-*
22 *cers of the Department of Homeland Security for each of*
23 *the fiscal years 2007 through 2012.*

24 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
25 *authorized to be appropriated to the Secretary to carry out*

1 *subsection (a) the following amounts for the following fiscal*
2 *years:*

3 (1) \$20,000,000 for fiscal year 2007.

4 (2) \$40,000,000 for fiscal year 2008.

5 (3) \$60,000,000 for fiscal year 2009.

6 (4) \$80,000,000 for fiscal year 2010.

7 (5) \$100,000,000 for fiscal year 2011.

8 (6) \$120,000,000 for fiscal year 2012.

9 **SEC. 122. ACCELERATION OF INTEGRATED DEEPWATER**
10 **SYSTEM.**

11 *In addition to any other amounts authorized by law,*
12 *there is authorized to be appropriated to the Secretary of*
13 *Homeland Security \$1,892,000,000 for the acquisition and*
14 *construction of vessels, aircraft, shore and offshore facilities*
15 *and other components associated with the Integrated Deep-*
16 *water System in accordance with the report required by sec-*
17 *tion 888 of the Homeland Security Act of 2002 (116 Stat.*
18 *2250).*

19 **SEC. 123. BORDER PATROL UNIT FOR UNITED STATES VIR-**
20 **GIN ISLANDS.**

21 *Not later than 180 days after the date of the enactment*
22 *of this Act, the Secretary of Homeland Security shall estab-*
23 *lish at least one Border Patrol unit for the Virgin Islands*
24 *of the United States.*

1 **SEC. 124. REPORT ON OWNERSHIP AND OPERATION OF**
2 **UNITED STATES SEAPORTS.**

3 *Not later than 180 days after the date of the enactment*
4 *of this Act, the Secretary of Homeland Security shall sub-*
5 *mit to the appropriate congressional committees a report*
6 *that contains—*

7 *(1) the name of each individual or entity that*
8 *leases, operates, manages, or owns real property or fa-*
9 *cilities at each United States seaport; and*

10 *(2) any other information that the Secretary de-*
11 *termines to be appropriate.*

12 **SEC. 125. REPORT ON SECURITY OPERATIONS AT CERTAIN**
13 **UNITED STATES SEAPORTS.**

14 *(a) STUDY.—The Secretary of Homeland Security*
15 *shall conduct a study on the adequacy of security operations*
16 *at the ten United States seaports that load and unload the*
17 *largest amount of containers.*

18 *(b) REPORT.—Not later than 270 days after the date*
19 *of the enactment of this Act, the Secretary shall submit to*
20 *the appropriate congressional committees a report on the*
21 *results of the study required by subsection (a).*

22 **SEC. 126. REPORT ON ARRIVAL AND DEPARTURE MANI-**
23 **FESTS FOR CERTAIN COMMERCIAL VESSELS**
24 **IN THE UNITED STATES VIRGIN ISLANDS.**

25 *Not later than 90 days after the date of the enactment*
26 *of this Act, the Secretary of Homeland Security shall sub-*

1 *mit to the appropriate congressional committees a report*
 2 *on the impact of implementing the requirements of section*
 3 *231 of the Immigration and Nationality Act (8 U.S.C.*
 4 *1221) (relating to providing United States border officers*
 5 *with arrival and departure manifests) with respect to com-*
 6 *mercial vessels that are fewer than 300 gross tons and oper-*
 7 *ate exclusively between the territorial waters of the United*
 8 *States Virgin Islands and the territorial waters of the Brit-*
 9 *ish Virgin Islands.*

10 **TITLE II—SECURITY OF THE**
 11 **INTERNATIONAL SUPPLY CHAIN**

12 **SEC. 201. SECURITY OF THE INTERNATIONAL SUPPLY**
 13 **CHAIN.**

14 (a) *IN GENERAL.*—*The Homeland Security Act of*
 15 *2002 (6 U.S.C. 101 et seq.) is amended by adding at the*
 16 *end the following new title:*

17 **“TITLE XVIII—SECURITY OF THE**
 18 **INTERNATIONAL SUPPLY CHAIN**

19 **“Subtitle A—General Provisions**

20 **“SEC. 1801. STRATEGIC PLAN TO ENHANCE THE SECURITY**
 21 **OF THE INTERNATIONAL SUPPLY CHAIN.**

22 “(a) *STRATEGIC PLAN.*—*The Secretary, in consulta-*
 23 *tion with appropriate Federal, State, local, and tribal gov-*
 24 *ernment agencies and private sector stakeholders responsible*
 25 *for security matters that affect or relate to the movement*

1 *of containers through the international supply chain, shall*
2 *develop and implement, and update as appropriate, a stra-*
3 *tegic plan to enhance the security of the international sup-*
4 *ply chain.*

5 “(b) *REQUIREMENTS.—The strategic plan required*
6 *under subsection (a) shall—*

7 “(1) *describe the roles, responsibilities, and au-*
8 *thorities of Federal, State, local, and tribal govern-*
9 *ment agencies and private sector stakeholders that re-*
10 *late to the security of the movement of containers*
11 *through the international supply chain;*

12 “(2) *identify and address gaps and unnecessary*
13 *overlaps in the roles, responsibilities, or authorities*
14 *described in paragraph (1);*

15 “(3) *identify and make recommendations regard-*
16 *ing legislative, regulatory, and organizational changes*
17 *necessary to improve coordination among the entities*
18 *or to enhance the security of the international supply*
19 *chain;*

20 “(4) *provide measurable goals, including objec-*
21 *tives, mechanisms, and a schedule, for furthering the*
22 *security of commercial operations from point of ori-*
23 *gin to point of destination;*

24 “(5) *build on available resources and consider*
25 *costs and benefits;*

1 “(6) provide incentives for additional voluntary
2 measures to enhance cargo security, as determined by
3 the Secretary;

4 “(7) consider the impact of supply chain security
5 requirements on small and medium size companies;

6 “(8) include a process for sharing intelligence
7 and information with private sector stakeholders to
8 assist in their security efforts;

9 “(9) identify a framework for prudent and meas-
10 ured response in the event of a transportation secu-
11 rity incident involving the international supply
12 chain;

13 “(10) provide a plan for the expeditious resump-
14 tion of the flow of legitimate trade in accordance with
15 section 70103(a)(2)(J)(ii) of title 46, United States
16 Code;

17 “(11) consider the linkages between supply chain
18 security and security programs within other systems
19 of movement, including travel security and terrorism
20 finance programs; and

21 “(12) expand upon and relate to existing strate-
22 gies and plans, including the National Strategy for
23 Maritime Security and the eight supporting plans of
24 the Strategy, as required by Homeland Security Pres-
25 idential Directive-13 (September 2005).

1 “(c) *UTILIZATION OF ADVISORY COMMITTEES.*—As
2 *part of the consultations described in subsection (a), the*
3 *Secretary shall, to the extent practicable, utilize the Home-*
4 *land Security Advisory Committee, the National Maritime*
5 *Security Advisory Committee, and the Commercial Oper-*
6 *ations Advisory Committee to review, as necessary, the*
7 *draft strategic plan and any subsequent updates to the stra-*
8 *tegic plan.*

9 “(d) *INTERNATIONAL STANDARDS AND PRACTICES.*—
10 *In furtherance of the strategic plan required under sub-*
11 *section (a), the Secretary is encouraged to consider proposed*
12 *or established standards and practices of foreign govern-*
13 *ments and international organizations, including the Inter-*
14 *national Maritime Organization, the World Customs Orga-*
15 *nization, the International Labor Organization, and the*
16 *International Organization for Standardization, as appro-*
17 *priate, to establish standards and best practices for the secu-*
18 *rity of containers moving through the international supply*
19 *chain.*

20 “(e) *REPORT.*—

21 “(1) *INITIAL REPORT.*—*The Secretary shall sub-*
22 *mit to the appropriate congressional committees a re-*
23 *port that contains the strategic plan required by sub-*
24 *section (a).*

1 “(2) *FINAL REPORT.*—Not later than three years
2 after the date on which the strategic plan is submitted
3 under paragraph (1), the Secretary shall submit to
4 the appropriate congressional committees a report
5 that contains an update of the strategic plan.

6 “(f) *DEFINITION.*—In this section, the term ‘transportation security incident’ has the meaning given the term
7 in section 70101(6) of title 46, United States Code.

9 **“SEC. 1802. TRANSMISSION OF ADDITIONAL DATA ELE-**
10 **MENTS FOR IMPROVED HIGH RISK TAR-**
11 **GETING.**

12 “(a) *REQUIREMENT.*—The Secretary shall require
13 transmission to the Department, through an electronic data
14 interchange system, of additional data elements for im-
15 proved high risk targeting, including appropriate security
16 elements of entry data, as determined by the Secretary, to
17 be provided as advanced information with respect to cargo
18 destined for importation into the United States prior to
19 loading of such cargo on vessels at foreign seaports.

20 “(b) *REGULATIONS.*—The Secretary shall promulgate
21 regulations to carry out this section. In promulgating such
22 regulations, the Secretary shall adhere to the parameters
23 applicable to the development of regulations under section
24 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note), in-
25 cluding provisions relating to consultation, technology,

1 *analysis, use of information, confidentiality, and timing re-*
2 *quirements.*

3 **“SEC. 1803. PLAN TO IMPROVE THE AUTOMATED TAR-**
4 **GETING SYSTEM.**

5 *“(a) PLAN.—The Secretary shall develop and imple-*
6 *ment a plan to improve the Automated Targeting System*
7 *for the identification of high-risk containers moving*
8 *through the international supply chain.*

9 *“(b) CONTENTS.—*

10 *“(1) TREATMENT OF RECOMMENDATIONS.—The*
11 *Secretary shall include in the plan required under*
12 *subsection (a) a schedule to address the recommenda-*
13 *tions of the Comptroller General of the United States,*
14 *the Inspector General of the Department of the Treas-*
15 *ury, and the Inspector General of the Department of*
16 *Homeland Security with respect to the operation of*
17 *the Automated Targeting System.*

18 *“(2) INFORMATION SUBMISSIONS.—In developing*
19 *the plan required under subsection (a), the Secretary*
20 *shall consider the cost, benefit, and feasibility of—*

21 *“(A) requiring additional nonmanifest doc-*
22 *umentation for each container;*

23 *“(B) adjusting the time period allowed by*
24 *law for revisions to a container cargo manifest;*

1 “(C) adjusting the time period allowed by
2 law for submission of entry data for vessel or
3 cargo; and

4 “(D) such other actions the Secretary con-
5 siders beneficial for improving the information
6 relied upon for the Automated Targeting System
7 and any other targeting systems in furthering
8 the security and integrity of the international
9 supply chain.

10 “(3) *OUTSIDE REVIEW.*—The Secretary shall
11 conduct, through an independent panel, a review of
12 the Automated Targeting System. The results of this
13 review shall be included in the plan required under
14 subsection (a).

15 “(4) *SMART SYSTEM.*—The Secretary shall con-
16 sider future iterations of the Automated Targeting
17 System, which would incorporate smart features, such
18 as more complex algorithms and real-time intel-
19 ligence, instead of relying solely on rule sets that are
20 periodically updated. The Secretary shall also con-
21 sider how the Automated Targeting System could be
22 improved through linkages with targeting systems in
23 existence on the date of the enactment of the Security
24 and Accountability For Every Port Act for travel se-
25 curity and terrorism finance programs.

1 (1), all containers bound for ports of entry in the
2 United States shall meet such standards and proce-
3 dures.

4 “(b) *REVIEW AND ENHANCEMENT.*—The Secretary
5 shall regularly—

6 “(1) review the standards and procedures estab-
7 lished pursuant to subsection (a); and

8 “(2) enhance the security standards and proce-
9 dures, as appropriate, based on tests of technologies as
10 they become commercially available to detect con-
11 tainer intrusion and the highest consequence threats,
12 particularly weapons of mass destruction.

13 “(c) *INTERNATIONAL CARGO SECURITY STANDARDS.*—
14 The Secretary, in consultation with the Secretary of State,
15 is encouraged to promote and establish international stand-
16 ards for the security of containers moving through the inter-
17 national supply chain with foreign governments and inter-
18 national organizations, including the International Mari-
19 time Organization and the World Customs Organization.

20 “(d) *INTERNATIONAL TRADE AND OTHER OBLIGA-*
21 *TIONS.*—In carrying out this section, the Secretary shall
22 consult with appropriate Federal departments and agencies
23 and private sector stakeholders to ensure that actions under
24 this section do not violate international trade obligations
25 or other international obligations of the United States.

1 **“SEC. 1805. CONTAINER SECURITY INITIATIVE (CSI).**

2 “(a) *AUTHORIZATION.*—*The Secretary is authorized to*
3 *establish and implement a program (to be known as the*
4 *‘Container Security Initiative’ or ‘CSI’) to identify and ex-*
5 *amine maritime containers that pose a risk for terrorism*
6 *at foreign ports before the containers are shipped to the*
7 *United States.*

8 “(b) *ASSESSMENT.*—*Before the Secretary designates*
9 *any foreign port under CSI, the Secretary, in consultation*
10 *with other Federal officials, as appropriate, shall conduct*
11 *an assessment of the port, including—*

12 “(1) *the level of risk for the potential compromise*
13 *of containers by terrorists or terrorist weapons;*

14 “(2) *the volume of regular container traffic to*
15 *United States ports;*

16 “(3) *the results of the Coast Guard assessments*
17 *conducted pursuant to section 70108 of title 46,*
18 *United States Code;*

19 “(4) *the commitment of the host nation to co-*
20 *operating with the Department in sharing critical*
21 *data and risk management information and to main-*
22 *tain programs to ensure employee integrity; and*

23 “(5) *the potential for validation of security prac-*
24 *tices by the Department.*

1 “(c) *NOTIFICATION.*—*The Secretary shall notify the*
2 *appropriate congressional committees prior to notifying the*
3 *public of the designation of a foreign port under CSI.*

4 “(d) *INSPECTIONS.*—

5 “(1) *REQUIREMENTS AND PROCEDURES.*—*The*
6 *Secretary shall—*

7 “(A) *establish technical capability criteria*
8 *and standard operating procedures for the use of*
9 *nonintrusive inspection and nuclear and radio-*
10 *logical detection systems in conjunction with*
11 *CSI;*

12 “(B) *require each port designated under*
13 *CSI to operate nonintrusive inspection and nu-*
14 *clear and radiological detection systems in ac-*
15 *cordance with the technical capability criteria*
16 *and standard operating procedures established*
17 *under subparagraph (A); and*

18 “(C) *continually monitor the technologies,*
19 *processes, and techniques used to inspect cargo at*
20 *ports designated under CSI.*

21 “(2) *CONSISTENCY OF STANDARDS AND PROCE-*
22 *DURES.*—*The Secretary shall ensure that the technical*
23 *capability criteria and standard operating procedures*
24 *established under paragraph (1)(A) are consistent*
25 *with such standards and procedures of any other de-*

1 *partment or agency of the Federal government with*
2 *respect to deployment of nuclear and radiological de-*
3 *tection systems outside the United States.*

4 *“(3) FOREIGN ASSISTANCE.—*

5 *“(A) IN GENERAL.—The Secretary, in con-*
6 *sultation with the Secretary of State, the Sec-*
7 *retary of Energy, and the heads of other Federal*
8 *agencies, shall identify foreign assistance pro-*
9 *grams that could facilitate the implementation of*
10 *cargo security antiterrorism measures at ports*
11 *designated under CSI and foreign ports not des-*
12 *ignated under CSI that lack effective*
13 *antiterrorism measures.*

14 *“(B) ACQUISITION.—The Secretary is au-*
15 *thorized to loan or otherwise assist in the deploy-*
16 *ment of nonintrusive inspection or nuclear and*
17 *radiological detection systems for cargo con-*
18 *tainers at each designated CSI port under such*
19 *terms and conditions as the Secretary determines*
20 *to be appropriate and to provide training for*
21 *foreign personnel involved in CSI.*

22 *“(e) PROHIBITION.—*

23 *“(1) IN GENERAL.—The Secretary shall issue a*
24 *‘do not load’ order to each port designated under CSI*
25 *to prevent the onload of any cargo that has been iden-*

1 *tified as higher risk by the Automated Targeting Sys-*
2 *tem unless the cargo—*

3 *“(A) is scanned with a non intrusive im-*
4 *agery device and nuclear or radiological detec-*
5 *tion equipment;*

6 *“(B) is devanned and inspected with nu-*
7 *clear or radiological detection equipment; or*

8 *“(C) is determined to be of lower risk fol-*
9 *lowing additional inquiries by appropriate per-*
10 *sonnel of U.S. Customs and Border Protection.*

11 *“(2) RULE OF CONSTRUCTION.—Nothing in this*
12 *subsection shall be construed to interfere with the*
13 *ability of the Secretary to deny entry of any cargo*
14 *into the United States.*

15 *“(f) REPORT.—The Secretary shall submit to the ap-*
16 *propriate congressional committees not later than March 1*
17 *of each year a report on the status of CSI, including—*

18 *“(1) a description of the security improvements*
19 *gained through CSI;*

20 *“(2) the rationale for the continuance of each*
21 *port designated under CSI;*

22 *“(3) an assessment of the personnel needs at each*
23 *port designated under CSI; and*

1 *including importers, exporters, carriers, customs brokers,*
2 *and freight forwarders, among other parties.*

3 “(d) *PROCEDURES.*—*The Secretary shall establish uni-*
4 *form procedures for the receipt, care, and storage of supply*
5 *chain security information that is voluntarily submitted to*
6 *the Department through the system developed under sub-*
7 *section (b).*

8 “(e) *LIMITATIONS.*—*The voluntary information col-*
9 *lected through the system developed under subsection (b)*
10 *shall be used exclusively for ensuring security and shall not*
11 *be used for determining entry or for any other commercial*
12 *enforcement purpose. The voluntary information submitted*
13 *to the Department through the system developed under sub-*
14 *section (b) shall not be construed to constitute compliance*
15 *with any requirement to submit such information to a Fed-*
16 *eral agency under any other provision of law.*

17 “(f) *PARTICIPANTS.*—*The Secretary shall develop pro-*
18 *ocols for determining appropriate private sector personnel*
19 *who shall have access to the system developed under sub-*
20 *section (b). Such personnel shall include designated security*
21 *officers within companies that are determined to be low risk*
22 *through participation in the Customs-Trade Partnership*
23 *Against Terrorism program established pursuant to subtitle*
24 *B of this title.*

1 “(g) *CONFIDENTIALITY.*—*Notwithstanding any other*
2 *provision of law, information that is voluntarily submitted*
3 *by the private sector to the Department through the system*
4 *developed under subsection (b)—*

5 “(1) *shall be exempt from disclosure under sec-*
6 *tion 552 of title 5, United States Code (commonly re-*
7 *ferred to as the Freedom of Information Act);*

8 “(2) *shall not, without the written consent of the*
9 *person or entity submitting such information, be used*
10 *directly by the Department or a third party, in any*
11 *civil action arising under Federal or State law if*
12 *such information is submitted in good faith; and*

13 “(3) *shall not, without the written consent of the*
14 *person or entity submitting such information, be used*
15 *or disclosed by any officer or employee of the United*
16 *States for purposes other than the purposes of this*
17 *section, except—*

18 “(A) *in furtherance of an investigation or*
19 *other prosecution of a criminal act; or*

20 “(B) *when disclosure of the information*
21 *would be—*

22 “(i) *to either House of Congress, or to*
23 *the extent of matter within its jurisdiction,*
24 *any committee or subcommittee thereof, any*

1 *joint committee thereof or subcommittee of*
2 *any such joint committee; or*

3 “*(ii) to the Comptroller General, or*
4 *any authorized representative of the Comp-*
5 *troller General, in the course of the perform-*
6 *ance of the duties of the Comptroller Gen-*
7 *eral.*

8 “(h) *INDEPENDENTLY OBTAINED INFORMATION.—*
9 *Nothing in this section shall be construed to limit or other-*
10 *wise affect the ability of a Federal, State, or local, govern-*
11 *ment entity, under applicable law, to obtain supply chain*
12 *security information, including any information lawfully*
13 *and properly disclosed generally or broadly to the public*
14 *and to use such information in any manner permitted by*
15 *law.*

16 “(i) *PENALTIES.—Whoever, being an officer or em-*
17 *ployee of the United States or of any department or agency*
18 *thereof, knowingly publishes, divulges, discloses, or makes*
19 *known in any manner or to any extent not authorized by*
20 *law, any supply chain security information protected in*
21 *this section from disclosure, shall be fined under title 18,*
22 *United States Code, imprisoned not more than 1 year, or*
23 *both, and shall be removed from office or employment.*

24 “(j) *AUTHORITY TO ISSUE WARNINGS.—The Secretary*
25 *may provide advisories, alerts, and warnings to relevant*

1 *companies, targeted sectors, other governmental entities, or*
2 *the general public regarding potential risks to the supply*
3 *chain as appropriate. In issuing a warning, the Secretary*
4 *shall take appropriate actions to protect from disclosure—*

5 “(1) *the source of any voluntarily submitted sup-*
6 *ply chain security information that forms the basis*
7 *for the warning; and*

8 “(2) *information that is proprietary, business*
9 *sensitive, relates specifically to the submitting person*
10 *or entity, or is otherwise not appropriately in the*
11 *public domain.*

12 **“Subtitle B—Customs-Trade Part-**
13 **nership Against Terrorism (C-**
14 **TPAT)**

15 **“SEC. 1811. ESTABLISHMENT.**

16 “(a) *ESTABLISHMENT.—The Secretary is authorized to*
17 *establish a voluntary program (to be known as the ‘Cus-*
18 *toms-Trade Partnership Against Terrorism’ or ‘C-TPAT’)*
19 *to strengthen and improve the overall security of the inter-*
20 *national supply chain and United States border security.*

21 “(b) *MINIMUM SECURITY REQUIREMENTS.—The Sec-*
22 *retary shall review the minimum security requirements of*
23 *C-TPAT at least once every year and update such require-*
24 *ments as necessary.*

1 **“SEC. 1812. ELIGIBLE ENTITIES.**

2 *“Importers, brokers, forwarders, air, sea, land carriers,*
3 *and other entities in the international supply chain and*
4 *intermodal transportation system are eligible to apply to*
5 *voluntarily enter into partnerships with the Department*
6 *under C-TPAT.*

7 **“SEC. 1813. MINIMUM REQUIREMENTS.**

8 *“An applicant seeking to participate in C-TPAT*
9 *shall—*

10 *“(1) demonstrate a history of moving commerce*
11 *in the international supply chain;*

12 *“(2) conduct an assessment of its supply chains*
13 *based upon security criteria established by the Sec-*
14 *retary, including—*

15 *“(A) business partner requirements;*

16 *“(B) container security;*

17 *“(C) physical security and access controls;*

18 *“(D) personnel security;*

19 *“(E) procedural security;*

20 *“(F) security training and threat aware-*
21 *ness; and*

22 *“(G) information technology security;*

23 *“(3) implement and maintain security measures*
24 *and supply chain security practices meeting security*
25 *criteria; and*

1 “(4) meet all other requirements established by
2 the Secretary.

3 **“SEC. 1814. TIER ONE PARTICIPANTS.**

4 “(a) *BENEFITS.*—The Secretary may offer limited ben-
5 efits to C-TPAT participants whose security measures and
6 supply chain security practices have been certified in ac-
7 cordance with the guidelines established pursuant to sub-
8 section (b).

9 “(b) *GUIDELINES.*—The Secretary shall update guide-
10 lines for certifying a C-TPAT participant’s security meas-
11 ures and supply chain security practices under this section.

12 **“SEC. 1815. TIER TWO PARTICIPANTS.**

13 “(a) *IN GENERAL.*—Not later than one year after a
14 C-TPAT participant has been certified under section 1814,
15 the Secretary shall validate, directly or through third party
16 entities certified in accordance with section 1817, the secu-
17 rity measures and supply chain security practices of that
18 participant. Such validation shall include assessments at
19 appropriate foreign locations utilized by the participant as
20 part of the supply chain.

21 “(b) *CONSEQUENCES FOR FAILED VALIDATION.*—If a
22 C-TPAT participant’s security measures and supply chain
23 security practices fail to meet the validation requirements
24 under this section, the Commissioner of U.S. Customs and
25 Border Protection may—

1 “(1) deny the participant benefits under C-
2 TPAT on a temporary or permanent basis; or

3 “(2) suspend or expel the participant from C-
4 TPAT.

5 “(c) *RIGHT OF APPEAL.*—A C-TPAT participant de-
6 scribed in subsection (b) may file an appeal with the Sec-
7 retary of the Commissioner’s decision under subsection
8 (b)(1) to deny benefits under C-TPAT or under subsection
9 (b)(2) to suspend or expel the participant from C-TPAT.

10 “(d) *BENEFITS.*—The Secretary shall extend benefits
11 to each C-TPAT participant that has been validated under
12 this section, which may include—

13 “(1) reduced examinations; and

14 “(2) priority processing for searches.

15 **“SEC. 1816. TIER THREE PARTICIPANTS.**

16 “(a) *IN GENERAL.*—The Secretary shall establish a
17 third tier of C-TPAT that offers additional benefits to C-
18 TPAT participants that demonstrate a sustained commit-
19 ment beyond the minimum criteria for participation in C-
20 TPAT.

21 “(b) *ADDITIONAL CRITERIA.*—The Secretary shall des-
22 ignate criteria for C-TPAT participants under this section
23 that may include criteria to ensure—

24 “(1) cargo is loaded on a vessel with a vessel se-
25 curity plan approved under section 70103(c) of title

1 46, *United States Code*, or on a vessel with a valid
2 *International Ship Security Certificate* as provided
3 for under part 104 of title 33, *Code of Federal Regu-*
4 *lations*;

5 “(2) *container security devices and related poli-*
6 *cies and practices that exceed the standards and pro-*
7 *cedures established by the Secretary are utilized; and*

8 “(3) *cargo complies with any other requirements*
9 *determined by the Secretary.*

10 “(c) *BENEFITS.—The Secretary, in consultation with*
11 *the Commercial Operations Advisory Committee and the*
12 *National Maritime Security Advisory Committee, may pro-*
13 *vide benefits to C-TPAT participants under this section,*
14 *which may include—*

15 “(1) *the expedited release of tier three cargo into*
16 *destination ports within the United States during all*
17 *threat levels designated by the Secretary;*

18 “(2) *reduced or streamlined bonding require-*
19 *ments that are consistent with obligations under other*
20 *applicable provisions of law;*

21 “(3) *preference to vessels;*

22 “(4) *further reduced examinations;*

23 “(5) *priority processing for examinations;*

24 “(6) *further reduced scores in the Automated*
25 *Targeting System; and*

1 “(7) *streamlined billing of any customs duties or*
2 *fees.*

3 “(d) *DEFINITION.—In this section, the term ‘container*
4 *security device’ means a mechanical or electronic device de-*
5 *signed to, at a minimum, detect unauthorized intrusion of*
6 *containers.*

7 **“SEC. 1817. CONSEQUENCES FOR LACK OF COMPLIANCE.**

8 “(a) *IN GENERAL.—If a C-TPAT participant’s secu-*
9 *rity measures and supply chain security practices fail to*
10 *meet any of the requirements under this subtitle, the Sec-*
11 *retary may deny the participant benefits in whole or in*
12 *part under this subtitle.*

13 “(b) *FALSE OR MISLEADING INFORMATION.—If a C-*
14 *TPAT participant intentionally provides false or mis-*
15 *leading information to the Secretary or a third party entity*
16 *during the validation process of the participant under this*
17 *subtitle, the Commissioner of U.S. Customs and Border*
18 *Protection shall suspend or expel the participant from C-*
19 *TPAT for a period of not less than five years.*

20 “(c) *RIGHT OF APPEAL.—A C-TPAT participant de-*
21 *scribed in subsection (a) may file an appeal with the Sec-*
22 *retary of the Secretary’s decision under subsection (a) to*
23 *deny benefits under this subtitle. A C-TPAT participant de-*
24 *scribed in subsection (b) may file an appeal with the Sec-*

1 *retary of the Commissioner’s decision under subsection (b)*
2 *to suspend or expel the participant from C-TPAT.*

3 **“SEC. 1818. VALIDATIONS BY THIRD PARTY ENTITIES.**

4 “(a) *IN GENERAL.*—*In conducting the pilot program*
5 *under subsection (f), and if the Secretary determines to ex-*
6 *pand the use of third party entities to conduct validations*
7 *of C-TPAT participants upon completion of the pilot pro-*
8 *gram under subsection (f), the Secretary shall—*

9 “(1) *develop, document, and update, as nec-*
10 *essary, minimum standard operating procedures and*
11 *requirements applicable to such entities for the con-*
12 *duct of such validations; and*

13 “(2) *meet all requirements under subtitle G of*
14 *the title VIII of this Act to review and designate such*
15 *minimum standard operating procedures as a quali-*
16 *fied anti-terrorism technology for purposes of such*
17 *subtitle.*

18 “(b) *CERTIFICATION OF THIRD PARTY ENTITIES.*—

19 “(1) *ISSUANCE OF CERTIFICATE OF CONFORM-*
20 *ANCE.*—*In accordance with section 863(d)(3) of this*
21 *Act, the Secretary shall issue a certificate of conform-*
22 *ance to a third party entity to conduct validations*
23 *under this subtitle if the entity—*

24 “(A) *demonstrates to the satisfaction of the*
25 *Secretary the ability to perform validations in*

1 *accordance with standard operating procedures*
2 *and requirements (or updates thereto) designated*
3 *as a qualified anti-terrorism technology by the*
4 *Secretary under subsection (a); and*

5 “(B) agrees—

6 “(I) to perform validations in accord-
7 *ance with such standard operating proce-*
8 *dures and requirements (or updates thereto);*
9 *and*

10 “(ii) to maintain liability insurance
11 *coverage at policy limits and in accordance*
12 *with conditions to be established by the Sec-*
13 *retary pursuant to section 864 of this Act;*
14 *and*

15 “(C) signs an agreement to protect all pro-
16 *prietary information of C-TPAT participants*
17 *with respect to which the entity will conduct*
18 *validations.*

19 “(2) *LITIGATION AND RISK MANAGEMENT PRO-*
20 *TECTIONS.—A third party entity that maintains li-*
21 *ability insurance coverage at policy limits and in ac-*
22 *cordance with conditions to be established by the Sec-*
23 *retary pursuant to section 864 of this Act and re-*
24 *ceives a certificate of conformance under paragraph*
25 *(1) shall receive all applicable litigation and risk*

1 *management protections under sections 863 and 864*
2 *of this Act.*

3 “(3) *RECIPROCAL WAIVER OF CLAIMS.—A recip-*
4 *rocal waiver of claims shall be deemed to have been*
5 *entered into between a third party entity that receives*
6 *a certificate of conformance under paragraph (1) and*
7 *its contractors, subcontractors, suppliers, vendors, cus-*
8 *tomers, and contractors and subcontractors of cus-*
9 *tomers involved in the use or operation of the valida-*
10 *tion services of the third party entity.*

11 “(c) *INFORMATION FOR ESTABLISHING LIMITS OF LI-*
12 *ABILITY INSURANCE.—A third party entity seeking a cer-*
13 *tificate of conformance under subsection (b)(1) shall provide*
14 *to the Secretary necessary information for establishing the*
15 *limits of liability insurance required to be maintained by*
16 *the entity under section 864(a) of this Act.*

17 “(d) *ADDITIONAL REQUIREMENTS.—The Secretary*
18 *shall ensure that—*

19 “(1) *any third party entity under this section—*

20 “(A) *has no beneficial interest in or any di-*
21 *rect or indirect control over the C-TPAT partici-*
22 *part that is contracting for the validation serv-*
23 *ices; and*

24 “(B) *has no other conflict of interest with*
25 *respect to the C-TPAT participant; and*

1 “(2) *the C-TPAT participant has entered into a*
2 *contract with the third party entity under which the*
3 *C-TPAT participant agrees to pay all costs associated*
4 *with the validation.*

5 “(e) *MONITORING.—*

6 “(1) *IN GENERAL.—The Secretary shall regularly*
7 *monitor and inspect the operations of a third party*
8 *entity conducting validations under this subtitle to*
9 *ensure that the entity is meeting the minimum stand-*
10 *ard operating procedures and requirements for the*
11 *validation of C-TPAT participants established under*
12 *subsection (a) and all other applicable requirements*
13 *for validation services under this subtitle.*

14 “(2) *REVOCATION.—If the Secretary finds that a*
15 *third party entity is not meeting the minimum*
16 *standard operating procedures and requirements, the*
17 *Secretary shall—*

18 “(A) *revoke the entity’s certificate of con-*
19 *formance issued under subsection (b)(1); and*

20 “(B) *review any validations conducted by*
21 *the entity.*

22 “(f) *PILOT PROGRAM.—*

23 “(1) *IN GENERAL.—The Secretary shall carry*
24 *out a pilot program to test the feasibility, costs, and*
25 *benefits of utilizing third party entities to conduct*

1 *validations of C-TPAT participants. In conducting*
2 *the pilot program, the Secretary shall comply with all*
3 *applicable requirements of this section with respect to*
4 *eligibility of third party entities to conduct valida-*
5 *tions of C-TPAT participants.*

6 “(2) *REPORT.*—*Not later than 30 days after the*
7 *completion of the pilot program conducted pursuant*
8 *to paragraph (1), the Secretary shall submit to the*
9 *appropriate congressional committees a report that*
10 *contains—*

11 “(A) *the results of the pilot program; and*

12 “(B) *the determination of the Secretary*
13 *whether or not to expand the use of third party*
14 *entities to conduct validations of C-TPAT par-*
15 *ticipants.*

16 **“SEC. 1819. REVALIDATION.**

17 *“The Secretary shall establish a process for revali-*
18 *dating C-TPAT participants under this subtitle. Such re-*
19 *validation shall occur not less frequently than once during*
20 *every 3-year period following the initial validation.*

21 **“SEC. 1820. NON-CONTAINERIZED CARGO.**

22 *“The Secretary may consider the potential for partici-*
23 *pation in C-TPAT by importers of non-containerized car-*
24 *goes that otherwise meet the requirements under this sub-*
25 *title.*

1 **“SEC. 1821. AUTHORIZATION OF APPROPRIATIONS.**

2 *“There are authorized to be appropriated \$75,000,000*
 3 *for each of the fiscal years 2007 through 2012 to carry out*
 4 *this subtitle.*

5 **“Subtitle C—Miscellaneous**
 6 **Provisions**

7 **“SEC. 1831. RESEARCH, DEVELOPMENT, TEST, AND EVALUA-**
 8 **TION EFFORTS IN FURTHERANCE OF MARI-**
 9 **TIME AND CARGO SECURITY.**

10 *“(a) IN GENERAL.—The Secretary shall—*

11 *“(1) direct research, development, test, and eval-*
 12 *uation efforts in furtherance of maritime and cargo*
 13 *security;*

14 *“(2) encourage the ingenuity of the private sector*
 15 *in developing and testing technologies and process in-*
 16 *novations in furtherance of these objectives; and*

17 *“(3) evaluate such technologies.*

18 *“(b) COORDINATION.—The Secretary, in coordination*
 19 *with the Undersecretary for Science and Technology, the*
 20 *Director of the Domestic Nuclear Detection Office of the De-*
 21 *partment, and the heads of other appropriate offices or enti-*
 22 *ties of the Department, shall ensure that—*

23 *“(1) research, development, test, and evaluation*
 24 *efforts funded by the Department in furtherance of*
 25 *maritime and cargo security are coordinated to avoid*
 26 *duplication of efforts; and*

1 “(2) *the results of such efforts are shared*
2 *throughout the Department and other Federal, State,*
3 *and local agencies, as appropriate.*

4 **“SEC. 1832. GRANTS UNDER OPERATION SAFE COMMERCE.**

5 “(a) *IN GENERAL.—The Secretary shall provide*
6 *grants, as part of Operation Safe Commerce, to—*

7 “(1) *integrate nonintrusive imaging inspection*
8 *and nuclear and radiological detection systems with*
9 *automatic identification methods for containers, ves-*
10 *sels, and vehicles;*

11 “(2) *test physical access control protocols and*
12 *technologies to include continuous tracking devices*
13 *that provide real-time monitoring and reporting;*

14 “(3) *create a data sharing network capable of*
15 *transmitting data required by entities participating*
16 *in the international supply chain from every inter-*
17 *modal transfer point to the National Targeting Cen-*
18 *ter of the Department; and*

19 “(4) *otherwise further maritime and cargo secu-*
20 *urity, as determined by the Secretary.*

21 “(b) *SUPPLY CHAIN SECURITY FOR SPECIAL CON-*
22 *TAINER AND NONCONTAINERIZED CARGO.—In providing*
23 *grants under subsection (a), the Secretary shall establish*
24 *demonstration projects that further the security of the inter-*
25 *national supply chain, including refrigerated containers,*

1 *and noncontainerized cargo, including roll-on/roll-off,*
2 *break-bulk, liquid, and dry bulk cargo, through real-time,*
3 *continuous tracking technology for special or high-risk con-*
4 *tainer cargo that poses unusual potential for human or en-*
5 *vironmental harm.*

6 “(c) *COMPETITIVE SELECTION PROCESS.—The Sec-*
7 *retary shall select recipients of grants under subsection (a)*
8 *through a competitive process on the basis of the following*
9 *criteria:*

10 “(1) *The extent to which the applicant can dem-*
11 *onstrate that personnel, laboratory, and organiza-*
12 *tional resources will be available to the applicant to*
13 *carry out the activities authorized under this section.*

14 “(2) *The applicant’s capability to provide lead-*
15 *ership in making national and regional contributions*
16 *to the solution of maritime and cargo security issues.*

17 “(3) *The extent to which the applicant’s pro-*
18 *grams, projects, and activities under the grant will*
19 *address highest risk priorities as determined by the*
20 *Secretary.*

21 “(4) *The extent to which the applicant has a*
22 *strategic plan for carrying out the programs, projects,*
23 *and activities under the grant.*

24 “(5) *Any other criteria the Secretary determines*
25 *to be appropriate.*

1 “(d) *ADMINISTRATIVE PROVISIONS.*—

2 “(1) *PROHIBITION ON DUPLICATION OF EF-*
3 *FORT.*—*Before providing any grant under subsection*
4 *(a), the Secretary shall coordinate with other Federal*
5 *departments and agencies to ensure the grant will not*
6 *duplicate work already being carried out with Federal*
7 *funding.*

8 “(2) *ACCOUNTING, REPORTING, AND REVIEW*
9 *PROCEDURES.*—*The Secretary shall establish account-*
10 *ing, reporting, and review procedures to ensure*
11 *that—*

12 “(A) *amounts made available under a grant*
13 *provided under subsection (a)—*

14 “(i) *are used for the purpose for which*
15 *such amounts were made available; and*

16 “(ii) *are properly accounted for; and*

17 “(B) *amounts not used for such purpose*
18 *and amounts not expended are recovered.*

19 “(3) *RECORDKEEPING.*—*The recipient of a grant*
20 *under subsection (a) shall keep all records related to*
21 *expenditures and obligations of amounts provided*
22 *under the grant and make such records available*
23 *upon request to the Secretary for audit and examina-*
24 *tion.*

1 “(4) *REVIEW.*—*The Secretary shall annually re-*
2 *view the programs, projects, and activities carried out*
3 *using amounts made available under grants provided*
4 *under subsection (a) to ensure that obligations and*
5 *expenditures of such amounts are consistent with the*
6 *purposes for which such amounts are made available.*

7 “(e) *ANNUAL REPORT.*—*Not later than March 1 of*
8 *each year, the Secretary shall submit to the appropriate*
9 *congressional committees a report detailing the results of*
10 *Operation Safe Commerce.*

11 “(f) *DEFINITION.*—*In this section, the term ‘Operation*
12 *Safe Commerce’ means the research, development, test, and*
13 *evaluation grant program that brings together private sec-*
14 *tor shareholders, port officials, and Federal, State, and local*
15 *representatives to analyze existing security procedures for*
16 *cargo and develop new security protocols that have the po-*
17 *tential to increase the security of cargo shipments by moni-*
18 *toring the movement and integrity of cargo through the*
19 *international supply chain.*

20 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—

21 “(1) *IN GENERAL.*—*Subject to paragraph (2),*
22 *there are authorized to be appropriated \$25,000,000*
23 *for each of fiscal years 2007 through 2012 to carry*
24 *out this section.*

1 “(2) *EFFECTIVE DATE.*—*Paragraph (1) shall be*
2 *effective beginning on the date on which the Secretary*
3 *submits to the appropriate congressional committees a*
4 *report on the implementation and results of grants*
5 *provided under Operation Safe Commerce before the*
6 *date of the enactment of the Security and Account-*
7 *ability For Every Port Act.*

8 **“SEC. 1833. DEFINITIONS.**

9 *“In this title, the following definitions apply:*

10 “(1) *AUTOMATED TARGETING SYSTEM.*—*The*
11 *term ‘Automated Targeting System’ means the rules-*
12 *based system incorporating intelligence material and*
13 *import transaction history, established by U.S. Cus-*
14 *toms and Border Protection to target high risk ship-*
15 *ments of cargo.*

16 “(2) *EXAMINATION.*—*The term ‘examination’*
17 *means a physical inspection or the imaging and radi-*
18 *ation screening of a conveyance using non-intrusive*
19 *inspection (NII) technology, for the presence of con-*
20 *traband.*

21 “(3) *INSPECTION.*—*The term ‘inspection’ means*
22 *the comprehensive process used by U.S. Customs and*
23 *Border Protection for assessing goods entering the*
24 *United States to appraise them for duty purposes, to*
25 *detect the presence of restricted or prohibited items,*

1 *and to ensure compliance with all applicable laws.*
2 *This process may include screening, conducting an*
3 *examination, or conducting a search.*

4 “(4) *INTERNATIONAL SUPPLY CHAIN.*—*The term*
5 *‘international supply chain’ means the end-to-end*
6 *process for shipping goods from a point of origin*
7 *overseas to and from the United States.*

8 “(5) *NUCLEAR AND RADIOLOGICAL DETECTION*
9 *SYSTEM.*—*The term ‘nuclear and radiological detec-*
10 *tion system’ means any technology that is capable of*
11 *detecting or identifying nuclear and radiological ma-*
12 *terial or explosive devices.*

13 “(6) *SCREENING.*—*The term ‘screening’ means a*
14 *visual or automated review of information about*
15 *goods, including manifest or entry documentation ac-*
16 *companying a shipment being imported into the*
17 *United States, to determine or assess the threat of*
18 *such cargo.*

19 “(7) *SEARCH.*—*The term ‘search’ means an in-*
20 *trusive examination in which a container is opened*
21 *and its contents are de-vanned and visually inspected*
22 *for the presence of misdeclared, restricted, or prohib-*
23 *ited items.’.*”

1 **(b) CLERICAL AMENDMENT.**—*The table of contents in*
 2 *section 1(b) of the Homeland Security Act of 2002 (116*
 3 *Stat. 2135) is amended by adding at the end the following:*

“TITLE XVIII—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

“Subtitle A—General Provisions

“Sec. 1801. *Strategic plan to enhance the security of the international supply chain.*

“Sec. 1802. *Transmission of additional data elements for improved high risk targeting.*

“Sec. 1803. *Plan to improve the Automated Targeting System.*

“Sec. 1804. *Container standards and verification procedures.*

“Sec. 1805. *Container Security Initiative (CSI).*

“Sec. 1806. *Information sharing relating to supply chain security cooperation.*

“Subtitle B—Customs-Trade Partnership Against Terrorism (C-TPAT)

“Sec. 1811. *Establishment.*

“Sec. 1812. *Eligible entities.*

“Sec. 1813. *Minimum requirements.*

“Sec. 1814. *Tier one participants.*

“Sec. 1815. *Tier two participants.*

“Sec. 1816. *Tier three participants.*

“Sec. 1817. *Consequences for lack of compliance.*

“Sec. 1818. *Validations by third party entities.*

“Sec. 1819. *Revalidation.*

“Sec. 1820. *Non-containerized cargo.*

“Sec. 1821. *Authorization of appropriations.*

“Subtitle C—Miscellaneous Provisions

“Sec. 1831. *Research, development, test, and evaluation efforts in furtherance of maritime and cargo security.*

“Sec. 1832. *Grants under Operation Safe Commerce.*

“Sec. 1833. *Definitions.*”.

4 **(c) EFFECTIVE DATES.**—*The Secretary of Homeland*
 5 *Security shall—*

6 (1) *submit to the appropriate congressional com-*
 7 *mittees the report required by section 1801(e)(1) of*
 8 *the Homeland Security Act of 2002, as added by sub-*
 9 *section (a), not later than 180 days after the date of*
 10 *enactment of this Act;*

1 (2) *promulgate regulations under section 1802(b)*
2 *of the Homeland Security Act of 2002, as added by*
3 *subsection (a), not later than one year after the date*
4 *of the enactment of this Act;*

5 (3) *develop and implement the plan to improve*
6 *the Automated Targeting System under section*
7 *1803(a) of the Homeland Security Act of 2002, as*
8 *added by subsection (a), not later than 180 days after*
9 *the date of the enactment of this Act,*

10 (4) *develop the standards and verification proce-*
11 *dures described in section 1804(a)(1) of the Homeland*
12 *Security Act of 2002, as added by subsection (a), not*
13 *later than 180 days after the date of the enactment*
14 *of this Act;*

15 (5) *begin exercising authority to issue a “do not*
16 *load” order to each port designated under CSI pursu-*
17 *ant to section 1805(e) of the Homeland Security Act*
18 *of 2002, as added by subsection (a), not later than*
19 *180 days after the date of the enactment of this Act;*

20 (6) *develop the secure electronic data interchange*
21 *system under section 1806(b) of the Homeland Secu-*
22 *rity Act of 2002, as added by subsection (a), not later*
23 *than one year after the date of the enactment of this*
24 *Act;*

1 (7) *update guidelines for certifying a C-TPAT*
2 *participant's security measures and supply chain se-*
3 *curity practices under section 1814(b) of the Home-*
4 *land Security Act of 2002, as added by subsection (a),*
5 *not later than 180 days after the date of the enact-*
6 *ment of this Act;*

7 (8) *develop a schedule and update guidelines for*
8 *validating a C-TPAT participant's security measures*
9 *and supply chain security practices under section*
10 *1815 of the Homeland Security Act of 2002, as added*
11 *by subsection (a), not later than 180 days after the*
12 *date of enactment of this Act;*

13 (9) *provide appropriate benefits described in*
14 *subsection (d) of section 1816 of the Homeland Secu-*
15 *rity Act of 2002, as added by subsection (a), to C-*
16 *TPAT participants under section 1816 of such Act be-*
17 *ginning not later than two years after the date of the*
18 *enactment of this Act; and*

19 (10) *carry out the pilot program described in*
20 *section 1818(f) of the Homeland Security Act of 2002,*
21 *as added by subsection (a), beginning not later than*
22 *one year after the date of the enactment of this Act*
23 *for a duration of not less than a one-year period.*

1 **SEC. 202. NEXT GENERATION SUPPLY CHAIN SECURITY**
2 **TECHNOLOGIES.**

3 (a) *EVALUATION OF EMERGING TECHNOLOGIES.*—
4 *While maintaining the current layered, risk-based approach*
5 *to screening, scanning, and inspecting cargo at foreign*
6 *ports bound for the United States in accordance with exist-*
7 *ing statutory provisions, the Secretary of Homeland Secu-*
8 *rity shall evaluate the development of nuclear and radio-*
9 *logical detection systems and other inspection technologies*
10 *for use at foreign seaports to increase the volume of con-*
11 *tainers scanned prior to loading on vessels bound for the*
12 *United States.*

13 (b) *EMERGING TECHNOLOGY.*—*Not later than one year*
14 *after the date of the enactment of this Act, the Secretary*
15 *shall, having evaluated emerging technologies under sub-*
16 *section (a), determine if more capable, commercially avail-*
17 *able technology exists, and whether such technology—*

18 (1) *has a sufficiently low false alarm rate for use*
19 *in the supply chain;*

20 (2) *is capable of being deployed and operated at*
21 *ports overseas;*

22 (3) *is capable of integrating, where necessary,*
23 *with existing systems;*

24 (4) *does not significantly impact trade capacity*
25 *and flow of cargo at foreign or United States ports;*
26 *and*

1 (5) provides an automated notification of ques-
2 tionable or high-risk cargo as a trigger for further in-
3 spection by appropriately trained personnel.

4 (c) *CONTINGENT IMPLEMENTATION.*—If the Secretary
5 determines the available technology meets the criteria out-
6 lined in subsection (b), the Secretary, in cooperation with
7 the Secretary of State, shall within 180 days of such deter-
8 mination, seek to secure the cooperation of foreign govern-
9 ments to initiate and maximize the use of such technology
10 at foreign ports to scan all cargo possible.

11 (d) *INTERNATIONAL COOPERATION.*—If the Secretary
12 determines that a proposed technology meets the require-
13 ments of subsection (b), but cannot be implemented as a
14 result of a foreign government’s refusal to cooperate in the
15 phased deployment, the Secretary may refuse to accept con-
16 tainerized cargo from that port.

17 (e) *REPORT.*—The Secretary shall submit to the appro-
18 priate congressional committees on an annual basis a re-
19 port on the evaluation performed under subsections (a) and
20 (b), the status of any implementation initiated in accord-
21 ance with subsection (c), and a detailed assessment of the
22 level of cooperation of foreign governments, as well as any
23 actions taken by the Secretary under subsection (d).

24 (f) *DEFINITION.*—In this section, the term “nuclear
25 and radiological detection system” means any technology

1 *that is capable of detecting or identifying nuclear and radi-*
2 *ological material or explosive devices.*

3 **SEC. 203. UNIFORM DATA SYSTEM FOR IMPORT AND EX-**
4 **PORT INFORMATION.**

5 (a) *ESTABLISHMENT.*—*The President shall establish*
6 *and implement a single, uniform data system for the elec-*
7 *tronic collection, dissemination, and sharing of import and*
8 *export information to increase the efficiency of data submis-*
9 *sion and the security of such data related to border security,*
10 *trade, and public health and safety of international cargoes.*

11 (b) *PRIVATE SECTOR CONSULTATION.*—*The President*
12 *shall consult with private sector stakeholders in developing*
13 *uniform data submission requirements, procedures, and*
14 *schedules under the system established pursuant to sub-*
15 *section (a).*

16 (c) *REPORT.*—*Not later than 120 days after the date*
17 *of the enactment of this Act, the President shall transmit*
18 *to the appropriate congressional committees a report on the*
19 *schedule for full implementation of the system established*
20 *pursuant to subsection (a).*

21 (d) *RULE OF CONSTRUCTION.*—*Nothing in this section*
22 *shall be construed to prevent any Federal department or*
23 *agency from collecting import and export information*
24 *under any other provision of law.*

1 **SEC. 204. FOREIGN PORT ASSESSMENTS.**

2 *Section 70108 of title 46, United States Code, is*
3 *amended by adding at the end the following:*

4 *“(d) PERIODIC REASSESSMENT.—The Secretary, act-*
5 *ing through the Commandant of the Coast Guard, shall re-*
6 *assess the effectiveness of antiterrorism measures main-*
7 *tained at ports as described under subsection (a) and of*
8 *procedures described in subsection (b) not less than every*
9 *3 years.”.*

10 **SEC. 205. PILOT PROGRAM TO IMPROVE THE SECURITY OF**
11 **EMPTY CONTAINERS.**

12 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
13 *rity shall conduct a one-year pilot program to evaluate and*
14 *improve the security of empty containers at United States*
15 *seaports to ensure the safe and secure delivery of cargo and*
16 *to prevent potential acts of terrorism involving such con-*
17 *tainers. The pilot program shall include the use of visual*
18 *searches of empty containers at United States seaports.*

19 *(b) REPORT.—Not later than 90 days after the comple-*
20 *tion of the pilot program under paragraph (1), the Sec-*
21 *retary shall prepare and submit to the appropriate congres-*
22 *sional committees a report that contains—*

23 *(1) the results of pilot program; and*

24 *(2) the determination of the Secretary whether or*
25 *not to expand the pilot program.*

1 **SEC. 206. STUDY AND REPORT ON ADVANCED IMAGERY**
2 **PILOT PROGRAMS.**

3 (a) *STUDY.*—

4 (1) *IN GENERAL.*—*The Secretary of Homeland*
5 *Security, in consultation with the Commissioner of*
6 *U.S. Customs and Border Protection, shall conduct a*
7 *study of the merits of current container inspection*
8 *pilot programs which include nuclear or radiological*
9 *detection, non-intrusive imagery, and density scan-*
10 *ning capabilities.*

11 (2) *REQUIREMENTS.*—*The study required under*
12 *paragraph (1) shall include, at a minimum—*

13 (A) *an evaluation of the cost, personnel, and*
14 *infrastructure required to operate the pilot pro-*
15 *grams, as well as the cost, personnel, and infra-*
16 *structure required to move the pilot programs*
17 *into full-scale deployment to screen all cargo im-*
18 *ported from foreign ports;*

19 (B) *an evaluation of the cost, personnel,*
20 *and infrastructure required by U.S. Customs*
21 *and Border Protection to validate the data gen-*
22 *erated from the pilot programs;*

23 (C) *a summary of best practices and techno-*
24 *logical advances of the pilot programs that could*
25 *be integrated into the Container Security Initia-*
26 *tive and other container security programs; and*

1 (D) *an assessment of the impact of tech-*
2 *nology or processes utilized in the pilot programs*
3 *on improving cargo operations and security.*

4 (b) *REPORT.*—*Not later than 60 days after the date*
5 *of the enactment of this Act, the Secretary shall submit to*
6 *the appropriate congressional committees a report that con-*
7 *tains—*

8 (1) *the results of the study required under sub-*
9 *section (a); and*

10 (2) *recommendations to improve container secu-*
11 *rity programs within the Department of Homeland*
12 *Security.*

13 ***TITLE III—DIRECTORATE FOR***
14 ***POLICY, PLANNING, AND***
15 ***INTERNATIONAL AFFAIRS***

16 ***SEC. 301. ESTABLISHMENT OF DIRECTORATE.***

17 (a) *ESTABLISHMENT.*—*The Homeland Security Act of*
18 *2002 (6 U.S.C. 101 et seq.) is amended—*

19 (1) *by redesignating title VI as title XIX, and*
20 *moving such title so as to appear after title XVIII, as*
21 *added by section 201;*

22 (2) *by striking the heading for such title and in-*
23 *serting the following:*

1 **“TITLE XIX—MISCELLANEOUS**
 2 **PROVISIONS”.**

3 (3) *by redesignating section 601 as section 1901;*

4 *and*

5 (4) *by inserting after title V the following new*
 6 *title:*

7 **“TITLE VI—POLICY, PLANNING,**
 8 **AND INTERNATIONAL AFFAIRS**

9 **“SEC. 601. DIRECTORATE FOR POLICY, PLANNING, AND**
 10 **INTERNATIONAL AFFAIRS.**

11 “(a) *ESTABLISHMENT.—There shall be in the Depart-*
 12 *ment a Directorate for Policy, Planning, and International*
 13 *Affairs.*

14 “(b) *UNDER SECRETARY FOR POLICY.—*

15 “(1) *IN GENERAL.—The head of the Directorate*
 16 *shall be the Under Secretary for Policy, who shall be*
 17 *appointed by the President.*

18 “(2) *QUALIFICATIONS.—No individual shall be*
 19 *appointed Under Secretary for Policy under para-*
 20 *graph (1) unless the individual has, by education and*
 21 *experience, demonstrated knowledge, ability, and skill*
 22 *in the fields of policy and strategic planning.*

23 “(c) *RESPONSIBILITIES OF UNDER SECRETARY.—*

24 “(1) *POLICY RESPONSIBILITIES.—Subject to the*
 25 *direction and control of the Secretary, the policy re-*

1 *sponsibilities of the Under Secretary for Policy shall*
2 *be as follows:*

3 *“(A) To serve as the principal policy advi-*
4 *sor to the Secretary.*

5 *“(B) To provide overall direction and su-*
6 *pervision of policy development for the programs,*
7 *offices, and activities of the Department.*

8 *“(C) To establish and implement a formal*
9 *policymaking process for the Department.*

10 *“(D) To analyze, evaluate, and review the*
11 *completed, ongoing, and proposed programs of*
12 *the Department to ensure they are compatible*
13 *with the statutory and regulatory responsibilities*
14 *of the Department and with the Secretary’s pri-*
15 *orities, strategic plans, and policies.*

16 *“(E) To ensure that the budget of the De-*
17 *partment (including the development of future*
18 *year budgets and interaction with the Office of*
19 *Management and Budget and with Congress) is*
20 *compatible with the statutory and regulatory re-*
21 *sponsibilities of the Department and with the*
22 *Secretary’s priorities, strategic plans, and poli-*
23 *cies.*

24 *“(F) To represent the Department in any*
25 *development of policy that requires the Depart-*

1 *ment to consult with another Federal agency, the*
2 *Office of the President, a foreign government, or*
3 *any other governmental or private sector entity.*

4 “(G) *To supervise and oversee policy devel-*
5 *opment undertaken by the component agencies*
6 *and offices of the Department.*

7 “(2) *STRATEGIC PLANNING RESPONSIBILITIES.—*
8 *Subject to the direction and control of the Secretary,*
9 *the strategic planning responsibilities of the Under*
10 *Secretary for Policy shall be as follows:*

11 “(A) *To conduct long-range, strategic plan-*
12 *ning for the Department.*

13 “(B) *To prepare national and Department*
14 *strategies, as appropriate.*

15 “(C) *To conduct net assessments of issues*
16 *facing the Department.*

17 “(3) *INTERNATIONAL RESPONSIBILITIES.—Sub-*
18 *ject to the direction and control of the Secretary, the*
19 *international responsibilities of the Under Secretary*
20 *for Policy shall be as follows:*

21 “(A) *To promote the exchange of informa-*
22 *tion and the sharing of best practices and tech-*
23 *nology relating to homeland security with na-*
24 *tions friendly to the United States, including—*

1 “(i) the exchange of information on re-
2 search and development on homeland secu-
3 rity technologies;

4 “(ii) joint training exercises of first re-
5 sponders in coordination with the Assistant
6 Secretary for Grants and Training; and

7 “(iii) exchanging expertise and infor-
8 mation on terrorism prevention, response,
9 and crisis management.

10 “(B) To identify any homeland security-re-
11 lated area in which the United States and other
12 nations and appropriate international organiza-
13 tions could collaborate to improve capabilities
14 and to encourage the exchange of information or
15 sharing of best practices and technology relating
16 to that area.

17 “(C) To plan and participate in inter-
18 national conferences, exchange programs (includ-
19 ing the exchange of scientists, engineers, and
20 other experts), and other training activities with
21 friendly nations

22 “(D) To manage international activities
23 within the Department in coordination with
24 other Federal officials with responsibility for
25 counterterrorism matters.

1 “(E) To oversee the activities of Department
2 personnel operating in other countries or trav-
3 eling to other countries,

4 “(F) To represent the Department in inter-
5 national negotiations, working groups, and
6 standards-setting bodies.

7 “(4) PRIVATE SECTOR.—

8 “(A) To create and foster strategic commu-
9 nications with the private sector to enhance the
10 primary mission of the Department to protect
11 the United States.

12 “(B) To advise the Secretary on the impact
13 on the private sector of the policies, regulations,
14 processes, and actions of the Department.

15 “(C) To create and manage private sector
16 advisory councils composed of representatives of
17 industries and associations designated by the
18 Secretary—

19 “(i) to advise the Secretary on private
20 sector products, applications, and solutions
21 as they relate to homeland security chal-
22 lenges; and

23 “(ii) to advise the Secretary on home-
24 land security policies, regulations, processes,

1 and actions that affect the participating in-
2 dustries and associations.

3 “(D) To promote existing public-private
4 partnerships and develop new public-private
5 partnerships to provide for collaboration and
6 mutual support to address homeland security
7 challenges.

8 “(E) To identify private sector resources
9 and capabilities that could be effective in
10 supplementing functions of the Department and
11 State and local governments to prevent or re-
12 spond to acts of terrorism.

13 “(F) To coordinate among the Department’s
14 operating entities and with the Assistant Sec-
15 retary for Trade Development of the Department
16 of Commerce on issues related to the travel and
17 tourism industries.

18 **“SEC. 602. OFFICE OF INTERNATIONAL AFFAIRS.**

19 “(a) *ESTABLISHMENT.*—There is established within
20 the Directorate of Policy, Planning, and International Af-
21 fairs an Office of International Affairs. The Office shall be
22 headed by an Assistant Secretary, who shall be appointed
23 by the Secretary.

24 “(b) *DUTIES OF THE ASSISTANT SECRETARY.*—The
25 Assistant Secretary shall have the following duties:

1 “(1) To promote information and education ex-
2 change with nations friendly to the United States in
3 order to promote sharing of best practices and tech-
4 nologies relating to homeland security. Such exchange
5 shall include the following:

6 “(A) Exchange of information on research
7 and development on homeland security tech-
8 nologies.

9 “(B) Joint training exercises of first re-
10 sponders.

11 “(C) Exchange of expertise on terrorism
12 prevention, response, and crisis management.

13 “(2) To identify areas for homeland security in-
14 formation and training exchange where the United
15 States has a demonstrated weakness and another
16 friendly nation or nations have a demonstrated exper-
17 tise.

18 “(3) To plan and undertake international con-
19 ferences, exchange programs, and training activities.

20 “(4) To manage international activities within
21 the Department in coordination with other Federal
22 officials with responsibility for counter-terrorism
23 matters.

1 **“SEC. 603. OTHER OFFICES AND OFFICIALS.**

2 “(a) *IN GENERAL.*—*The Under Secretary for Policy*
3 *shall establish the following offices in the Directorate for*
4 *Policy, Planning, and International Affairs:*

5 “(1) *The Office of Policy, which shall be admin-*
6 *istered by an Assistant Secretary for Policy.*

7 “(2) *The Office of Strategic Plans, which shall be*
8 *administered by an Assistant Secretary for Strategic*
9 *Plans and which shall include—*

10 “(A) *a Secure Border Initiative Program*
11 *Office; and*

12 “(B) *a Screening Coordination and Oper-*
13 *ations Office.*

14 “(3) *The Office of the Private Sector, which shall*
15 *be administered by an Assistant Secretary for the*
16 *Private Sector.*

17 “(4) *The Victim Assistance Officer.*

18 “(5) *The Tribal Security Officer.*

19 “(6) *Such other offices as considered necessary by*
20 *the Under Secretary for Policy.*

21 “(b) *DIRECTOR OF CARGO SECURITY POLICY.*—

22 “(1) *IN GENERAL.*—*There shall be in the Direc-*
23 *torate for Policy, Planning, and International Affairs*
24 *a Director of Cargo Security Policy (hereinafter in*
25 *this section referred to as the ‘Director’), who shall be*

1 *subject to the direction and control of the Under Sec-*
 2 *retary for Policy.*

3 “(2) *RESPONSIBILITIES.*—*The Director shall—*

4 “(A) *advise the Assistant Secretary for Pol-*
 5 *icy regarding all aspects of Department pro-*
 6 *grams relating to cargo security;*

7 “(B) *develop Department-wide policies re-*
 8 *garding cargo security; and*

9 “(C) *coordinate the cargo security policies*
 10 *and programs of the Department with other Fed-*
 11 *eral departments and agencies, including by*
 12 *working with officials of the Department of En-*
 13 *ergy and the Department of State, as appro-*
 14 *priate, in negotiating international agreements*
 15 *relating to cargo security.”.*

16 (b) *CONFORMING AMENDMENTS.*—*Section 879 of the*
 17 *Homeland Security Act of 2002 (6 U.S.C. 459) is repealed.*

18 (c) *CLERICAL AMENDMENTS.*—*The table of contents in*
 19 *section 1(b) of such Act is amended—*

20 (1) *by striking the item relating to section 879;*

21 (2) *by striking the items relating to title VI and*

22 *inserting the following:*

 “*TITLE VI—POLICY, PLANNING, AND INTERNATIONAL AFFAIRS*

 “*Sec. 601. Directorate for Policy, Planning, and International Affairs.*

 “*Sec. 602. Office of International Affairs.*

 “*Sec. 603. Other offices and officials.”;*

23 *and*

1 (3) by inserting after the items relating to title
2 *XVIII* the following:

“TITLE XIX—MISCELLANEOUS PROVISIONS

“Sec. 1901. Treatment of charitable trusts for members of the armed forces of the United States and other governmental organizations.”.

3 **TITLE IV—OFFICE OF DOMESTIC**
4 **NUCLEAR DETECTION**

5 **SEC. 401. ESTABLISHMENT OF OFFICE.**

6 (a) *ESTABLISHMENT.*—The Homeland Security Act of
7 2002 (6 U.S.C. 101 et seq.) is amended by adding at the
8 end the following new title:

9 **“TITLE XX—OFFICE OF DOMES-**
10 **TIC NUCLEAR DETECTION**

11 **“SEC. 2001. DOMESTIC NUCLEAR DETECTION OFFICE.**

12 “(a) *IN GENERAL.*—There shall be in the Department
13 of Homeland Security a Domestic Nuclear Detection Office.

14 “(b) *PURPOSE.*—The purpose of the Office shall be to
15 protect against the unauthorized importation, possession,
16 storage, transportation, development, or use of a nuclear ex-
17 plosive device, fissile material, or radiological material
18 against the United States.

19 “(c) *DIRECTOR.*—The Office shall be headed by a Di-
20 rector of Domestic Nuclear Detection, who shall be ap-
21 pointed by the President from among individuals nomi-
22 nated by the Secretary.

1 “(d) *LIMITATION.*—*This title shall not be construed to*
2 *affect the performance, by directorates and agencies of the*
3 *Department other than the Office, of functions that are not*
4 *related to detection and prevention of nuclear and radio-*
5 *logical terrorism.*

6 “**SEC. 2002. FUNCTIONS OF DIRECTOR OF THE DOMESTIC**
7 **NUCLEAR DETECTION OFFICE, GENERALLY.**

8 “(a) *IN GENERAL.*—*The Secretary shall vest in the Di-*
9 *rector the primary responsibility in the Department for—*

10 “(1) *administering all nuclear and radiological*
11 *detection and prevention functions and assets of the*
12 *Department, including those functions vested in the*
13 *Department before the enactment of the Security and*
14 *Accountability For Every Port Act; and*

15 “(2) *for coordinating such administration with*
16 *nuclear and radiological detection and prevention ac-*
17 *tivities of other Federal departments and agencies.*

18 “(b) *TRANSFER OF FUNCTIONS.*—*The Secretary shall*
19 *transfer to the Director the authority to administer, or su-*
20 *perwise the administration of, all functions, personnel, as-*
21 *sets, and liabilities of all Department programs and*
22 *projects relating to nuclear and radiological detection re-*
23 *search, development, testing, and evaluation, and nuclear*
24 *and radiological detection system acquisition and deploy-*
25 *ment, including with respect to functions and assets trans-*

1 *ferred by section 303(1)(B), (C), and (E) and functions, as-*
2 *sets, and personnel transferred pursuant to section 2010(c).*

3 **“SEC. 2003. GLOBAL NUCLEAR DETECTION ARCHITECTURE.**

4 *“(a) IN GENERAL.—The Director shall coordinate the*
5 *Federal Government’s implementation of a global nuclear*
6 *detection architecture.*

7 *“(b) FUNCTIONS OF DIRECTOR.—The Director shall,*
8 *under subsection (a)—*

9 *“(1) design a strategy that will guide deploy-*
10 *ment of the global nuclear detection architecture;*

11 *“(2) implement the strategy in the United*
12 *States; and*

13 *“(3) coordinate Department and Federal inter-*
14 *agency efforts to deploy the elements of the global nu-*
15 *clear detection architecture outside the United States.*

16 *“(c) RELATIONSHIP TO OTHER DEPARTMENTS AND*
17 *AGENCIES.—The authority of the Director under this sec-*
18 *tion shall not affect an authority or responsibility of any*
19 *other department or agency of the Federal Government with*
20 *respect to the deployment of nuclear and radiological detec-*
21 *tion systems outside the United States under any program*
22 *administered by that department or agency.*

23 **“SEC. 2004. RESEARCH AND DEVELOPMENT.**

24 *“(a) IN GENERAL.—The Director shall carry out a re-*
25 *search and development program to achieve trans-*

1 *formational and evolutionary improvements in detection*
2 *capabilities for shielded and unshielded nuclear explosive*
3 *devices and radiological dispersion devices.*

4 “(b) *HIGH-RISK PROJECTS.*—*The program shall in-*
5 *clude funding for transformational research and develop-*
6 *ment projects that may have a high risk of failure but have*
7 *the potential to provide significant benefits.*

8 “(c) *LONG-TERM PROJECTS.*—*In order to reflect a*
9 *long-term commitment to the development of more effective*
10 *detection technologies, the program shall include the provi-*
11 *sion of funding for projects having a duration of more than*
12 *3 years, as appropriate.*

13 “(d) *COORDINATION WITH OTHER FEDERAL PRO-*
14 *GRAMS.*—*The Director shall coordinate implementation of*
15 *the program with other Federal agencies performing similar*
16 *research and development in order to accelerate the develop-*
17 *ment of effective technologies, promote technology sharing,*
18 *and to avoid duplication, including through the use of the*
19 *interagency coordination council established under section*
20 *2013.*

21 **“SEC. 2005. SYSTEM ASSESSMENTS.**

22 “(a) *IN GENERAL.*—*The Director shall carry out a*
23 *program to test and evaluate technology for detecting nu-*
24 *clear explosive devices and fissile or radiological material.*

1 “(b) *PERFORMANCE METRICS.*—*The Director shall es-*
2 *tablish performance metrics for evaluating the effectiveness*
3 *of individual detectors and detection systems in detecting*
4 *nuclear explosive devices or fissile or radiological mate-*
5 *rial—*

6 “(1) *under realistic operational and environ-*
7 *mental conditions; and*

8 “(2) *against realistic adversary tactics and*
9 *countermeasures.*

10 “(c) *PROVISION OF TESTING SERVICES.*—

11 “(1) *IN GENERAL.*—*The Director may, under the*
12 *program, make available testing services to commer-*
13 *cial developers of detection devices.*

14 “(2) *FEEES.*—*The Director may charge fees, as*
15 *appropriate, for performance of services under this*
16 *subsection.*

17 “(d) *SYSTEM ASSESSMENTS.*—

18 “(1) *IN GENERAL.*—*The Director shall periodi-*
19 *cally perform system-wide assessments of the global*
20 *nuclear detection architecture to identify*
21 *vulnerabilities and to gauge overall system perform-*
22 *ance against nuclear and radiological threats.*

23 “(2) *INCLUDED ACTIVITIES.*—*The assessments*
24 *shall include—*

1 “(A) *red teaming activities to identify*
2 *vulnerabilities and possible modes of attack and*
3 *concealment methods; and*

4 “(B) *net assessments to determine architec-*
5 *ture performance against adversary tactics and*
6 *concealment methods.*

7 “(3) *USE.—The Director shall use the assess-*
8 *ments to guide deployment of the global nuclear detec-*
9 *tion architecture and the research and development*
10 *activities of the Office.*

11 **“SEC. 2006. TECHNOLOGY ACQUISITION, DEPLOYMENT,**
12 **SUPPORT, AND TRAINING.**

13 “(a) *ACQUISITION STRATEGY.—*

14 “(1) *IN GENERAL.—The Director shall develop*
15 *and, subject to the availability of appropriations, exe-*
16 *cute a strategy for the acquisition and deployment of*
17 *detection systems in order to implement the Depart-*
18 *ment components of the global nuclear detection ar-*
19 *chitecture developed under section 2003.*

20 “(2) *USE OF AVAILABLE CONTRACTING PROCE-*
21 *DURES.—The Director shall make use of all con-*
22 *tracting procedures available to the Secretary to im-*
23 *plement the acquisition strategy.*

24 “(3) *DETERMINATION OF QUALIFIED ANTI-TER-*
25 *RORISM TECHNOLOGY.—The Director shall make rec-*

1 *ommendations based on the criteria included in sec-*
2 *tion 862(b) as to whether the detection systems ac-*
3 *quired pursuant to this subsection shall be designated*
4 *by the Secretary as anti-terrorism technologies that*
5 *qualify for protection under the system of risk man-*
6 *agement set forth in subtitle G of title VIII. The Un-*
7 *dersecretary for Science and Technology shall consider*
8 *the Director's recommendations and expedite the proc-*
9 *ess of determining whether such detection systems*
10 *shall be designated as anti-terrorism technologies that*
11 *qualify for such protection.*

12 “(b) *DEPLOYMENT.*—*The Director shall deploy detec-*
13 *tion systems for use by Department operational units and*
14 *other end-users in implementing the global nuclear detec-*
15 *tion architecture.*

16 “(c) *OPERATIONAL SUPPORT AND PROTOCOLS.*—

17 “(1) *OPERATIONAL SUPPORT.*—*The Director*
18 *shall provide operational support for all systems ac-*
19 *quired to implement the acquisition strategy devel-*
20 *oped under subsection (a).*

21 “(2) *OPERATIONAL PROTOCOLS.*—*The Director*
22 *shall develop operational protocols for detection tech-*
23 *nology acquired and deployed to implement the acqui-*
24 *sition strategy, including procedures for alarm resolu-*
25 *tion and notification of appropriate response agencies*

1 *in the event that illicit nuclear, radioactive, or fissile*
2 *materials are detected by such a product or service.*

3 “(3) *TECHNICAL REACHBACK.*—*The Director will*
4 *ensure that the expertise necessary to accurately inter-*
5 *pret detection data is made available in a timely*
6 *manner for all technology deployed to implement the*
7 *global nuclear detection architecture.*

8 “(d) *TRAINING.*—*The Director shall develop and dis-*
9 *tribute training materials and provide training to all end-*
10 *users of technology acquired by the Director under the ac-*
11 *quisition strategy.*

12 “(e) *SOLICITATION OF END-USER INPUT.*—*In devel-*
13 *oping requirements for the research and development pro-*
14 *gram of section 2004 and requirements for the acquisition*
15 *of detection systems to implement the strategy in subsection*
16 *(a), the Director shall solicit input from end-users of such*
17 *systems.*

18 “(f) *STATE AND LOCAL SUPPORT.*—*Upon request, the*
19 *Director shall provide guidance regarding radiation detec-*
20 *tion technology acquisitions to be made by State, territorial,*
21 *tribal and local governments and emergency response pro-*
22 *viders.*

23 **“SEC. 2007. SITUATIONAL AWARENESS.**

24 “(a) *DETECTION INFORMATION.*—*The Director—*

1 “(1) shall continuously monitor detection infor-
2 mation received from foreign and domestic detection
3 systems to maintain for the Department a situational
4 awareness of all nuclear threats;

5 “(2) shall gather and archive—

6 “(A) detection data measurements taken of
7 benign activities in the normal flows of com-
8 merce; and

9 “(B) alarm data, including false alarms
10 and nuisance alarms.

11 “(b) *INFORMATION SHARING.*—The Director shall co-
12 ordinate with other governmental agencies to ensure that
13 the detection of unauthorized nuclear explosive devices,
14 fissile material, or radiological material is promptly re-
15 ported to all appropriate Federal response agencies includ-
16 ing the Attorney General, the Director of the Federal Bu-
17 reau of Investigation, the Secretary of Defense, and the Sec-
18 retary of Energy.

19 “(c) *INCIDENT RESOLUTION.*—The Director shall as-
20 sess nuclear threats communicated by Federal, State, tribal,
21 or local officials and provide adequate technical reachback
22 capability for swift and effective incident resolution.

23 “(d) *SECURITY.*—The Director shall—

24 “(1) develop and implement security standards
25 and protocols for the control and protection of all

1 *classified or sensitive information in possession of the*
2 *Office; and*

3 *“(2) ensure that relevant personnel of the Office*
4 *have the required security clearances to properly han-*
5 *dle such information.*

6 **“SEC. 2008. FORENSIC ANALYSIS.**

7 *“The Director shall perform all research, development,*
8 *and acquisition activities of the Department pertaining to*
9 *forensic analysis and attribution of nuclear and radio-*
10 *logical attacks.*

11 **“SEC. 2009. THREAT INFORMATION.**

12 *“(a) THREAT ASSESSMENTS.—The Director shall uti-*
13 *lize classified and unclassified nuclear and radiological*
14 *threat assessments in designing the global nuclear detection*
15 *architecture under section 2003, prioritizing detection sys-*
16 *tem deployments, and testing and optimizing system per-*
17 *formance of that architecture, including assessments of—*

18 *“(1) smuggling routes;*

19 *“(2) locations of relevant nuclear and radio-*
20 *logical material throughout the world;*

21 *“(3) relevant terrorist tradecraft and conceal-*
22 *ment methods;*

23 *“(4) relevant nuclear and radiological threat ob-*
24 *jects in terms of possible detection signatures.*

1 “(b) *ACCESS TO INFORMATION.*—*The Secretary shall*
2 *provide the Director access to all information relating to*
3 *nuclear and radiological threats, including reports, assess-*
4 *ments, analyses, and unevaluated intelligence, that is nec-*
5 *essary to successfully design, deploy, and support the oper-*
6 *ation of an effective global detection architecture under sec-*
7 *tion 1903.*

8 “(c) *ANALYTICAL SUPPORT.*—*The Director shall re-*
9 *quest that the Secretary provide to the Director, pursuant*
10 *to section 201(d)(18), the requisite intelligence and infor-*
11 *mation analysis support necessary to effectively discharge*
12 *the Director’s responsibilities.*

13 “(d) *ANALYTICAL EXPERTISE.*—*For the purposes of*
14 *performing any of the assessments required under sub-*
15 *section (a), the Director, subject to the availability of appro-*
16 *priations, may hire professional personnel who are analysts*
17 *with experience in performing nuclear and radiological*
18 *threat assessments.*

19 “(e) *COLLECTION REQUESTS.*—*The Director shall rec-*
20 *ommend to the Secretary consultation that should occur*
21 *pursuant to section 201(d)(10) regarding intelligence collec-*
22 *tion to design, deploy, and support the operation of the glob-*
23 *al detection architecture under section 2003.*

1 **“SEC. 2010. ADMINISTRATIVE AUTHORITIES.**

2 “(a) *HIRING.*—*In hiring personnel for the Office, the*
3 *Secretary shall have hiring and management authorities*
4 *described in section 1101 of the Strom Thurmond National*
5 *Defense Authorization Act for Fiscal Year 1999 (5 U.S.C.*
6 *3104 note; Public Law 105–261). The term of appointments*
7 *for employees under subsection (c)(1) of that section may*
8 *not exceed 5 years before granting any extension under sub-*
9 *section (c)(2) of that section.*

10 “(b) *DETAIL OF PERSONNEL.*—*In order to assist the*
11 *Director in discharging the Director’s responsibilities, per-*
12 *sonnel of other Federal agencies may be detailed to the Of-*
13 *fice for the performance of analytic functions and related*
14 *duties.*

15 “(c) *TRANSFER OF SCIENCE AND TECHNOLOGY FUNC-*
16 *TIONS, PERSONNEL, AND ASSETS.*—

17 “(1) *TRANSFER REQUIRED.*—*Except as provided*
18 *in paragraph (2), the Secretary shall transfer to the*
19 *Director the functions, assets, and personnel of the*
20 *Department relating to radiological and nuclear*
21 *countermeasures, including forensics of contaminated*
22 *evidence and attack attribution.*

23 “(2) *EXCEPTIONS.*—*The Secretary shall not*
24 *transfer under paragraph (1) functions, assets, and*
25 *personnel relating to consequence management and*
26 *recovery.*

1 “(3) *ELIMINATION OF DUPLICATION OF EF-*
2 *FORT.—The Secretary shall ensure that to the extent*
3 *there are complementary functions vested in the Di-*
4 *rectorate of Science and Technology and the Office*
5 *with respect to radiological and nuclear counter-*
6 *measures, the Under Secretary for Science and Tech-*
7 *nology and the Director coordinate the programs they*
8 *administer to eliminate duplication and increase in-*
9 *tegration opportunities, particularly with respect to*
10 *technology development and test and evaluation.*

11 **“SEC. 2011. REPORT REQUIREMENT.**

12 *“The Director shall submit to the appropriate congres-*
13 *sional committees an annual report on the following:*

14 “(1) *The global detection strategy developed*
15 *under section 2003.*

16 “(2) *The status of implementation of such archi-*
17 *tecture.*

18 “(3) *The schedule for future detection system de-*
19 *ployments under such architecture.*

20 “(4) *The research and development program of*
21 *the Office.*

22 “(5) *A summary of actions taken by the Office*
23 *during the reporting period to counter nuclear and*
24 *radiological threats.*

1 **“SEC. 2012. ADVISORY COUNCIL ON NUCLEAR DETECTION.**

2 “(a) *ESTABLISHMENT.*—Pursuant to section 871 of
3 *this Act, the Secretary shall establish within the Office an*
4 *Advisory Council on Nuclear Detection, which shall report*
5 *to the Director (in this section referred to as the ‘Advisory*
6 *Council’).*

7 “(b) *FUNCTIONS.*—*The Advisory Council shall, at the*
8 *request of the Director—*

9 “(1) *advise the Director on recommendations for*
10 *the global nuclear detection architecture developed*
11 *under section 2003(a);*

12 “(2) *identify research areas for development of*
13 *next-generation and transformational nuclear and ra-*
14 *diological detection technologies; and*

15 “(3) *and have such additional responsibilities as*
16 *the Director may assign in furtherance of the Depart-*
17 *ment’s homeland security mission with respect to en-*
18 *hancing domestic and international nuclear and radi-*
19 *ological detection capabilities.*

20 “(c) *MEMBERSHIP.*—*The Advisory Council shall con-*
21 *sist of 5 members appointed by the Director, who shall—*

22 “(1) *be individuals who have an eminent knowl-*
23 *edge and technical expertise related to nuclear and*
24 *radiological detection research and development and*
25 *radiation detection; and*

1 “(2) be selected solely on the basis of their estab-
2 lished record of distinguished service; and

3 “(3) not be employees of the Federal Government,
4 other than employees of National Laboratories.

5 “(d) *CONFLICT OF INTEREST RULES.*—*The Advisory*
6 *Council shall establish rules for determining when one of*
7 *its members has a conflict of interest in a matter being con-*
8 *sidered by the Advisory Council, and the appropriate course*
9 *of action to address such conflicts of interest.*

10 **“SEC. 2013. INTERAGENCY COORDINATION COUNCIL.**

11 *“The President—*

12 *“(1) shall establish an interagency coordination*
13 *council to facilitate interagency cooperation for pur-*
14 *poses of implementing this title;*

15 *“(2) shall appoint the Secretary to chair the*
16 *interagency coordination council; and*

17 *“(3) may appoint the Attorney General, the Sec-*
18 *retary of Energy, the Secretary of State, the Secretary*
19 *of Defense, and the heads of other appropriate Federal*
20 *agencies to designate members to serve on such coun-*
21 *cil.*

22 **“SEC. 2014. AUTHORIZATION OF APPROPRIATIONS.**

23 *“There is authorized to be appropriated to carry out*
24 *this title—*

25 *“(1) \$536,000,000 for fiscal year 2007; and*

1 “(2) such sums as may be necessary for each sub-
2 sequent fiscal year.

3 **“SEC. 2015. DEFINITIONS.**

4 *“In this title:*

5 “(1) The term ‘Director’ means the Director of
6 the Domestic Nuclear Detection Office.

7 “(2) The term ‘fissile materials’ means materials
8 capable of sustaining a nuclear chain reaction.

9 “(3) The term ‘global nuclear detection architec-
10 ture’ means a multi-layered system of detectors de-
11 ployed internationally and domestically to detect and
12 interdict nuclear and radiological materials intended
13 for illicit use.

14 “(4) The term ‘nuclear and radiological detection
15 system’ means any technology that is capable of de-
16 tecting or identifying nuclear and radiological mate-
17 rial or explosive devices.

18 “(5) The term ‘Office’ means the Domestic Nu-
19 clear Detection Office.

20 “(6) The term ‘radiological material’ means ma-
21 terial that emits nuclear radiation.

22 “(7) The term ‘nuclear explosive device’ means
23 an explosive device capable of producing a nuclear
24 yield.

1 “(8) *The term ‘technical reachback’ means technical expert support provided to operational end users*
2 *for data interpretation and alarm resolution.*

3 “(9) *The term ‘transformational’ means that, if successful, will produce dramatic technological improvements over existing capabilities in the areas of performance, cost, or ease of use.*”

4 **(b) CONFORMING AMENDMENTS.—**

5 (1) *Section 103(d) of the Homeland Security Act of 2002 (6 U.S.C. 113(d)) is amended by adding at the end the following:*

6 “(5) *A Director of the Domestic Nuclear Detection Office.*”

7 (2) *Section 302 of such Act (6 U.S.C. 182) is amended—*

8 (A) *in paragraph (2) by striking “radiological, nuclear,”; and*

9 (B) *in paragraph (5)(A) by striking “radiological, nuclear.”*

10 (3) *Section 305 of such Act (6 U.S.C. 185) is amended by inserting “and the Director of the Domestic Nuclear Detection Office” after “Technology”.*

11 (4) *Section 308 of such Act (6 U.S.C. 188) is amended in each of subsections (a) and (b)(1) by in-*

1 serting “and the Director of the Domestic Nuclear De-
2 tection Office” after “Technology”.

3 (c) *CLERICAL AMENDMENT.*—The table of contents in
4 section 1(b) of the Homeland Security Act of 2002 (116
5 Stat. 2135) is amended by adding at the end the following:

“TITLE XX—OFFICE OF DOMESTIC NUCLEAR DETECTION

“Sec. 2001. Domestic Nuclear Detection Office.

“Sec. 2002. Functions of Director of the Domestic Nuclear Detection Office, gen-
erally.

“Sec. 2003. Global nuclear detection architecture.

“Sec. 2004. Research and development.

“Sec. 2005. System assessments.

“Sec. 2006. Technology acquisition, deployment, support, and training.

“Sec. 2007. Situational awareness.

“Sec. 2008. Forensic analysis.

“Sec. 2009. Threat information.

“Sec. 2010. Administrative authorities.

“Sec. 2011. Report requirement.

“Sec. 2012. Advisory Council on Nuclear Detection.

“Sec. 2013. Interagency coordination council.

“Sec. 2014. Authorization of appropriations.

“Sec. 2015. Definitions.”.

6 **SEC. 402. NUCLEAR AND RADIOLOGICAL DETECTION SYS-**
7 **TEMS.**

8 (a) *DEPLOYMENT.*—Not later than September 30,
9 2007, the Secretary of Homeland Security shall deploy nu-
10 clear and radiological detection systems at 22 United States
11 seaports. To the extent feasible, the Secretary shall deploy
12 the next-generation radiation portal monitors tested in the
13 pilot program under subsection (d) at such United States
14 seaports.

15 (b) *STRATEGY.*—Not later than 90 days after the date
16 of the enactment of this Act, the Secretary, acting through
17 the Director of the Domestic Nuclear Detection Office of the

1 *Department, shall submit to the appropriate congressional*
2 *committees a strategy for the deployment of nuclear and*
3 *radiological detection systems at all remaining United*
4 *States seaports.*

5 *(c) CONTENTS.—The strategy submitted under sub-*
6 *section (b) shall include—*

7 *(1) a risk-based prioritization of United States*
8 *seaports at which nuclear and radiological detection*
9 *systems will be deployed;*

10 *(2) a proposed timeline of when nuclear and ra-*
11 *diological detection systems will be deployed at each*
12 *of the seaports identified under paragraph (1);*

13 *(3) the type of systems to be used at each of the*
14 *seaports identified under paragraph (1);*

15 *(4) standard operating procedures for examining*
16 *containers with such systems;*

17 *(5) the Department policy for using nuclear and*
18 *radiological detection systems;*

19 *(6) a classified annex that details plans for cov-*
20 *ert testing; and*

21 *(7) a classified annex that outlines the risk-based*
22 *prioritization of seaports used under paragraph (1).*

23 *(d) SAFETY PLAN.—Not later than 180 days after the*
24 *date of the enactment of this Act, the Secretary shall submit*
25 *to the appropriate congressional committees a plan that—*

1 (1) *details the health and safety impacts of nu-*
2 *clear and radiological detection systems; and*

3 (2) *describes the policy of U.S. Customs and*
4 *Border Protection for using nuclear and radiological*
5 *detection systems.*

6 (e) *PILOT PROGRAM.—*

7 (1) *IN GENERAL.—Not later than January 1,*
8 *2007, the Secretary, acting through the Director of the*
9 *Domestic Nuclear Detection Office of the Department,*
10 *shall initiate a pilot program to deploy and test the*
11 *operational performance of next-generation radiation*
12 *portal monitors at one or more United States seaports*
13 *with a high-volume of containerized cargo.*

14 (2) *REPORT.—Not later than March 31, 2007,*
15 *the Secretary shall submit to the appropriate congress-*
16 *sional committees a report that contains—*

17 (A) *a description of the next-generation ra-*
18 *diation portal monitors deployed at United*
19 *States seaports under the pilot program;*

20 (B) *a description of the operational charac-*
21 *teristics of the pilot program at selected United*
22 *States seaports; and*

23 (C) *an evaluation of the operational per-*
24 *formance of the next-generation radiation portal*
25 *monitors, including nuisance alarm rates, and a*

1 *description of the standards used in such evalua-*
2 *tion.*

3 (f) *DEPLOYMENT OF NEXT-GENERATION RADIATION*
4 *PORTAL MONITORS.—*

5 (1) *IN GENERAL.—If the Secretary, acting*
6 *through the Director of the Domestic Nuclear Detec-*
7 *tion Office of the Department, determines that the*
8 *operational performance of the next-generation radi-*
9 *ation portal monitors under the pilot program car-*
10 *ried out under subsection (e) has met the standards*
11 *described subsection (e)(2)(C), the Secretary shall de-*
12 *ploy next-generation radiation portal monitors, in*
13 *fixed or other configurations, at all United States sea-*
14 *ports with a high-volume of containerized cargo to*
15 *improve cargo screening capabilities at such seaports*
16 *not later than September 30, 2007.*

17 (2) *CONGRESSIONAL NOTIFICATION.—If any de-*
18 *ployment of next-generation radiation portal mon-*
19 *itors is deemed by the Secretary to be operationally*
20 *infeasible or would result in ineffective, inefficient, or*
21 *otherwise wasteful use of resources, the Secretary shall*
22 *notify the appropriate congressional committees and*
23 *recommend alternative actions.*

24 (g) *ENHANCING OVERSEAS DETECTION CAPABILI-*
25 *TIES.—The Secretary, acting through the Director of the*

1 *Domestic Nuclear Detection Office of the Department, shall*
2 *work with appropriate Federal departments and agencies*
3 *to coordinate the installation of nuclear and radiological*
4 *detection systems at foreign seaports.*

5 *(h) DEFINITIONS.—In this section:*

6 *(1) NEXT-GENERATION RADIATION PORTAL MON-*
7 *ITORS.—The term “next-generation radiation portal*
8 *monitors” means non-intrusive, containerized cargo*
9 *examination technologies that possess radionuclide*
10 *isotope identification capabilities.*

11 *(2) NUCLEAR AND RADIOLOGICAL DETECTION*
12 *SYSTEM.—The term “nuclear and radiological detec-*
13 *tion system” means any technology that is capable of*
14 *detecting or identifying nuclear and radiological ma-*
15 *terial or explosive devices.*

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109TH CONGRESS
2D Session

H. R. 4954

[Report No. 109-447]

A BILL

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

MAY 1, 2006

Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed